united nations archives·microfilm 5 oct.1978

START

UNITED NATIONS ARCHIVES

security microfilm PROGRAMME

1989

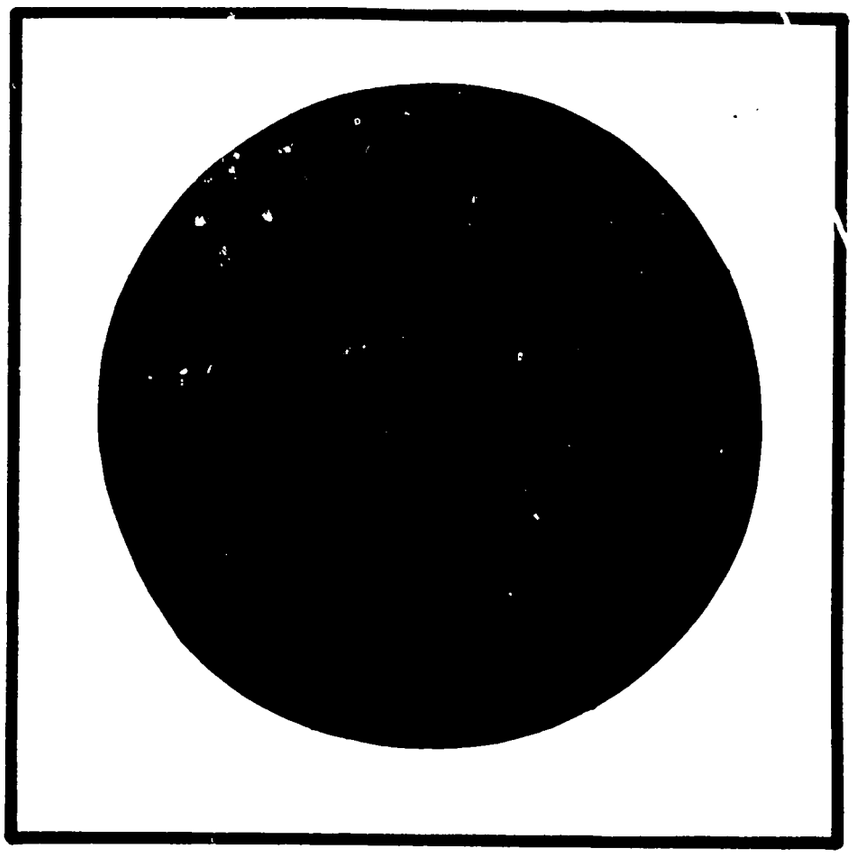
UNWCC

PAG - 3

REEL

no.

107



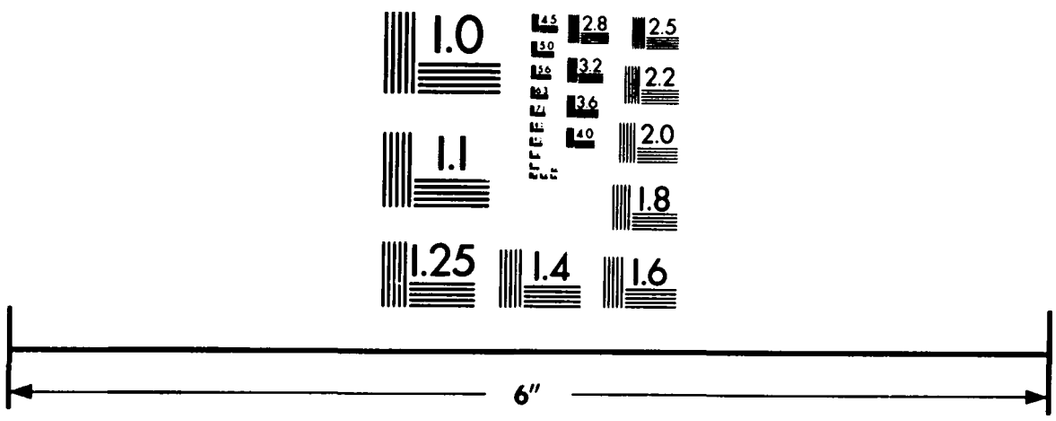
index of contents

INDEXING DATA		CODE NO.
PERIOD	United Nations War Crimes Commission (UNWCC) Member Governments, other National Authorities abd Military Tribunals PAG-3/2.2 : 5779 - 8251	
	Reports of National Military Tribunals U.S. Military Courts War Crimes Trial Reports and transcripts of Proceedings, Testimonies, Affidavits, Court Exhibits, Certificates and other records of Trial Case Nos. 373 Vol. 81 - 112 End of Reel 107	

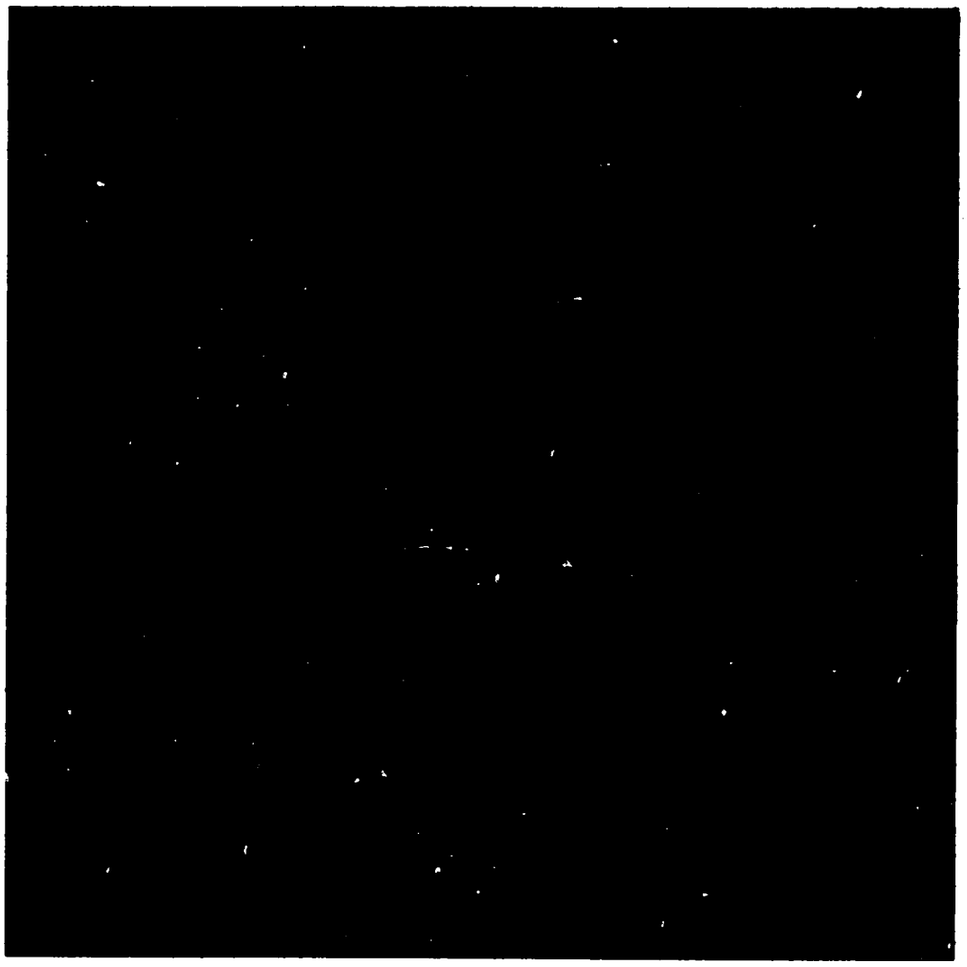
REDUCTION

26X

IMAGE EVALUATION TEST TARGET (MT-3)



PHOTOGRAPHIC SCIENCES CORPORATION
770 BASKET ROAD
P.O. BOX 338
WEBSTER, NEW YORK 14580
(716) 265-1600



CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

Pages 5779 - 5856 Incl.

Case No.

Prosecutor

~~*Summary~~
~~Intermediate Military Court~~
*General

Defence Counsel

Place DACHAU, GERMANY

Interpreter

Date 29 October 194 6
0900 - 1700 Hours

Reporter

~~Members of Court~~

WITNESSES:

OTTO PAULICZEK
BARTOLEMEUS NEUMEIER

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES — Versus — FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY — BEGINNING 12 JUNE 1946

29 October 1946 — 0900 - 1700 hours — Pages 5779 - 5856 incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
PAULICZEK, OTTO			5779 5810 5819		5786 5793 5815
NEUMEIER, BARTOLEMEUS	5825	5834	5849 5850	5851	5839 5850 5852

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-35	Letter	5817	
D-36	Letter	5817	
D-35-A	English translation of D-35	5819	
D-36-A	English translation of D-36	5819	

Ta 556 10-29-46
pls/1
Floss.

Camp Dachau, Germany
29 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0910 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel ~~Hanson~~ Wilson who is absent on business of the defense; all the accused are present with the exception of Buddensieg, Oswalt, Olschewski, Jakubith, Lipinksi, Matzke, Fisbusch, and Wurst, who are sick, and whose interests are being taken care of by their counsel.

Any spectators in the courtroom who expect to be called as witnesses in this case, will please leave the courtroom.

PRESIDENT: Redirect examination.

OTTO PAWLICZEK, an accused, resumed the stand and testified further through an interpreter as follows:

REDIRECT EXAMINATION (continued)

QUESTIONS BY DR. WACKER:

Q Pawliczek, do you remember I made an objection because of the translation?

A Yes, I do.

Q If I used exactly the same words in exactly the same sequence in German, "he would have remained capo for the longest time" and "he would have remained capo for the longest time", is there the same meaning in the two sentences in the German, or are they different.

PROSECUTION: I object because it calls for an unauthorized conclusion on the part of the witness. No foundation has been laid for an answer of this sort.

(Pawliczek-Redirect)

DR. WACKER: I think that the witness is thoroughly familiar with the German language and I think he will be able to give us the necessary information, and as for the foundation, it was laid yesterday when this misunderstanding occurred.

PRESIDENT: The court would like to ask the interpreter whether she herself understood that there was a possibility of some misunderstanding of the translation yesterday?

INTERPRETER: I don't think there could have been a misunderstanding. "He would have remained capo for the longest time". That's the only meaning I can understand - he could have been capo for the longest time - he would have been in his office for the longest time, the longest period of time in his office if he had done such and such a thing.

PRESIDENT: Objection overruled, proceed.

A That's somewhat ambiguous.

Q What did you mean, what did you want to express, what did you mean to say. Please give us the same answer in other words, different words.

A I'd like to state tothe court that the interpreter yesterday misunderstood me and that the interpretation was not correct. What I meant to say is that in the first place, the capo would have been punished immediately and would have been relieved at once.

Q At this time no further questions.

PRESIDENT: Then the court understands, interpreter, that you did not agree with the literal translation of yesterday?

INTERPRETER: No, I did not.

PRESIDENT: Anything further from the defense? Proceed, Mr. McKay.

(Pawliczek-Redirect)

MR. MC KAY: If it please the court, this is cross-examination on behalf of the accused I represent, for the reason he made references to certain capos and block elders.

QUESTIONS BY MR. MC KAY:

Q Mr. Pawliczek, in your direct examination and in your cross-examination, you referred to making agreements with somebody in regard to beating. I want to know with whom that agreement was made?

A There was no agreement.

Q In your cross- examination yesterday you stated that you made agreements with somebody about beating. Do you recall that?

A Well, I meant that differently.

Q Who was block eldest of Block 2 while you were block leader?

A I don't remember his name. I remember the one of Block A.

Q Who was block eldest of Block A?

A Block Eldest Loser.

Q Was it the block eldest of the block where you were block leader that you had this understanding with about the beatings?

A There was no agreement between the SS and the inmates. It was strictly forbidden to come into contact with prisoners at all.

Q Mr. Pawliczek, do you know whether there was any channel or means by which a prisoner could file a complaint against an SS man for alleged mistreatment?

A Yes, you could. In the first place he had to get some treatment and the doctor would certainly have asked him how he got his injuries and who had injured him. It's not so simple to do away with a prisoner. The name of every prisoners was listed in a roster and you just couldn't do away with him like that.

Q Did you have any other capo on your loading detail other than Neumeier that you spoke of?

A Neumeier was the capo of the unloading detail and I can't remember the name of the capo of the loading detail. I'd like to have him but I can't recall his name.

Q That is all.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Don't you know, Pawl Osek, that it was certain death for a prisoner if he filed a complaint against an SS man?

A Oh, I don't think so. The SS man would have gone away to a place where he belonged, that is, he would have been punished.

Q Don't you know, also, that when these prisoners went to the hospital for treatment they reported they had received their injuries in an accident in order to avoid reporting SS men and capos?

A No such case has occurred. Of course, he could have injured himself during the work by accident. I remember such cases when he injured himself because he wasn't careful enough.

Q When you were in charge of the masonry detail isn't it a fact that you shot a prisoner to death in a pit near the garage?

A Not shot to death.

PROSECUTION: No further questions. May it please the court, also, on that translation as I heard it he said "bestimmt". That is the first thing he said, then he said "Not shot to death," and I object to the translation made by the interpreter on that basis.

INTERPRETER: Did you say "bestimmt"?

WITNESS: No, I said "not shot to death". He was injured, wounded, and after that he died in the hospital.

PROSECUTION: I still object to the translation that was first made by this interpreter and I call Mr. Velte who also heard it.

PRESIDENT: The court would like to know from the present interpreter whether she heard the word, "bestimmt".

INTERPRETER: I am sorry, I didn't hear it.

PRESIDENT: In order to clear this record, the court would like to call upon the other interpreter and ask him whether he heard it.

MR. VELTE: I think he said, "das stimmt" - that's right, then he said --

PRESIDENT: Go ahead, Mr. Velte, give us the translation.

MR. VELTE: The translation was, "That's right, but I didn't shoot him to death."

PRESIDENT: The court feels it necessary to caution the present interpreter. Take your time, let's get everything into the record. The record has got to be absolutely certain. Dr. Wagner?

DR. WAGNER: I'd like to make a request at this time that the question and the answer and everything that was there in that regard be stricken from the record because it obviously occurred in 1941. The prosecution and court knows that.

PROSECUTION: May it please the court, he stated he had the masonry detail from - believe, in August to the 21st day of September and this took place on the masonry detail as I understand it.

WITNESS: It was in 1941, that's right.

PROSECUTION: May it please the court, if it took place in 1941 I don't want any part of it. I'm just as interested in having this record speak the truth as he is. That's not the

information I have. It took place in 1941, that's his testimony.

PRESIDENT: The court would like to ask the present witness just when this incident took place.

WITNESS: The incident took place in the Fall of 1941 and I acted in self defense at that time.

PRESIDENT: Just a minute, answer the question and let it go at that. The court will give you an opportunity later on for an explanation or a statement. If the prosecution has any further testimony along that line the court will receive it at a later period. In the meantime the motion to strike on the part of Dr. Wacker is sustained.

PROSECUTION: If it please the court, there is also another ground on which that testimony would be admissible, and that is the ground of impeachment purposes. As I recall his testimony he stated, "Yes, he did not kill any prisoner while he was in Flossenburg" and later on the objection was raised by Mr. McKay as to the limitation in point of time, but that would not militate against his first statement that he did not kill anyone while he was stationed in Flossenburg and it certainly would go to the credibility of his testimony that he states now on an admission, to a certain extent an qualifying admission at the present time, he states he acted in self defense.

PRESIDENT: The court will give that matter full consideration. Anything further? Are you finished with cross examination?

PROSECUTION: Yes.

DR. WACKER: I must object to that because the time to which the witness will testify is definitely limited to the period of time from the 1st of January 1942 up until the time he left camp. If incidents which occurred in the year 1941 should play any part at all, that is, as far as impeachment of

of this particular witness is concerned. I'd like to be notified about that so I can build up a proper defense. I was informed by Pawliczek that he had told the prosecution about this incident in full in writing and that it would be clear. I must object very materially that this matter be brought up now. Either we clear the matter up or we don't bring it before court at all. No further questions.

PRESIDENT: Mr. Wacker, the court has already approved the matter of striking this testimony from the record. The prosecutor's argument was based upon the credibility of the testimony of this particular witness and as the court stated, that matter will be given the consideration of the court. All right, proceed.

WITNESS: I'd like to make a statement, if it please the court.

PRESIDENT: You will have an opportunity. Anything further on the part of the defense?

MR. HALL: Nothing further.

PRESIDENT: Pawliczek, the court will give you an opportunity to make a statement with reference to any statement you have made. The court will hear at the present time any statements you have to make but the court cautions you at the same time to be concise and to the point.

WITNESS: Yes.

PRESIDENT: Go ahead.

WITNESS: I'd like to make the following statement in regard to the incident which was mentioned by the prosecutor, to the effect I shot a prisoner to death. During my first interrogation

which took place in December 194 , I told Mr. Berkowits that I injured a prisoner in self defense and that the same prisoner, as far as I know, died later on in the hospital but I know that only through hearsay and I gave this to Mr. Berkowits in writing and I told him it was a German prisoner. And it was in self defense and I think every German soldier when he is being attacked will defend himself and make use of his weapon. That's all I have to say.

PRESIDENT: Any questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q I understand you gave that to the prosecutor in writing, stating it happened in 1941?

A Yes. I expressed my doubts on the statement. I didn't know exactly, didn't remember whether it was in 1941 or 1942. But now, from the lapse of time when I was confined in the bunker I thought it over thoroughly. I told Mr. Berkowits it happened in the Fall of 1941 or 1942. I couldn't remember exactly , and that's the way it was, that's what I wrote.

Q You wrote in your statement that it was in the Fall of 1941 or 1942, is that what you say?

A Yes, but now I thought it over and I also can produce witnesses who can testify that it couldn't have been in the Spring of 1942 because I wasn't in Flossenburg. It could have been only 1941 and there might be a few among the accused who can testify to it.

Q Yesterday you testified that you went to a hospital in Berlin on the 20th or 29th of December 1941 and stayed until the

(Lawlessek-Court)

end of April or the 1st of May 19 2. Is that correct?

A Yes.

Q And then you testified that when you left the hospital to return to Flossenburg the last of April or the 1st of May, that the doctor there gave you a statement. Do you by chance still have that statement?

A No, unfortunately that was taken away from me.

Q When and where was that statement taken from you?

A Well, this particular certificate was taken away from me by the troops' doctor in Flossenburg.

QUESTIONS BY PRESIDENT:

Q I understand your testimony, Paulickey, to the effect that Fritzsch gave orders that prisoners were not to be beaten or harmed, is that correct?

A That's right.

Q Well, is that the same Fritzsch who time and time again supervised and ordered the beating of prisoners on the wooden horse?

A Yes, that's the same Fritzsch. There was only one Fritzsch in Flossenburg.

Q Yet you claim he gave out orders that the capos and those in authority would not beat prisoners? And he insisted upon reports being made instead of beating prisoners? How can you explain that apparent divergence of opinion on the part of Fritzsch? Can you explain his actions?

A Fritzsch said as follows: I can't spare you if you mistreat a prisoner, I have to report you to Berlin, and we also drew the attention of the capos to that point and told them about it. We were given orientation instructions and these orders were observed strictly.

(Paulickey-Court)

Q These beatings that were ordered by Fritsch, were they in turn ordered by Berlin?

A What kind of beatings do you mean, the 25 blows of the stick?

Q I'm referring to the beatings on the wooden horse.

A Yes. Before the 25 strokes with the stick were administered, as far as I know, an order was read to the prisoner who was supposed to receive them in which the reason for the beating was stated, and we assumed that this order came from Berlin.

Q Then you're endeavoring to give the court the idea that every time Fritsch ordered a beating or administered a beating, it was ordered by Berlin, is that the idea?

A Every beating was ordered by Berlin.

Q Do you want to give the court the same opinion that this same Fritsch ordered the capos not to beat prisoners or harm them, but to make reports? Is that what you want to imply to the court?

A Yes.

Q You admitted beating prisoners, Pawlicsek. How was that beating administered?

A With my open hand.

Q Always with the open hand?

A Yes.

Q You never beat a prisoner with a closed fist?

A No, I'm not a boxer.

Q You never closed your fist and hit them?

A No.

Q What effect did these beatings you administered have upon the inmates?

A No effect at all. Most of them would cry because they were afraid.

(Pauliosek-Court)

Q It never phased them, it never affected them?

A No.

Q They just stood there and took it?

A Well, they would rather take them because they knew they deserved them and they knew exactly in case I would make a report they would receive 25.

Q Were they ever knocked off their feet with those slaps or blows with the open hand?

A Well, it happened that they fell to the ground even befor they received the blow because they were afraid. They fell to the ground before I ever threw out.

Q They were afraid of you?

A Yes, that's right. No, that's not correct. I don't think they were afraid of me, they were afraid of the beating.

Q You testified that you had probably beaten prisoners 40 or 50 times, is that correct?

A Yes, approximately. I can't state the exact number. It could have been less, too. This number I gave is rather high.

Q Every time you used the open hand?

A Yes, I never used any other means.

Q Did you ever receive any beatings yourself while you were in Flossenburg?

A No, I hardly think so. An SS man wouldn't be beaten. You could be punished but you couldn't be beaten.

Q The SS men were never beaten, is that the idea?

A I don't think that a thing like that happens in any armed forces.

Q You never heard of one SS man being beaten up by another, is that right?

(Paul czek-Court)

A Well, that depends. There could have been some private arguments in the cafe, for instance, there could have been arguments but you wouldn't beat each other.

Q During the time you served with the Reichswehr you followed out orders, didn't you?

A Yes.

Q You were taught the importance and significance of following out orders and following them out exactly, were you not?

A Yes.

Q Explain to the court then why, when you got to Flossenburg you didn't continue to carry out orders issued by those in authority? The court is referring particularly to this matter of the order to the effect that prisoners would not be beaten.

A I'd like to tell the court that I acted in a humane way. If we had carried out the orders as we were given them by the camp leadership, they would have been punished in some other way and more severely, and so we rather took care of it ourselves in order to avoid that the prisoners were punished too severely. You can punish them by employing some less severe means.

Q If you had followed that policy in the Reichswehr, you'd probably be court-martialed, wasn't that the case? The court is referring to not carrying out orders. Isn't that correct? If you'd failed to carry out orders in the Reichswehr you'd probably be court-martialed, isn't that the procedure?

A Well, it was like this-if they had found out, if they would have noticed that I didn't carry out the orders, that I avoided making reports, I would have certainly been punished.

Q You said that the main reason you didn't carry out the orders

(Lewlicze-Court)

in camp to refrain from punishing prisoners, was mainly due to a humane viewpoint, is that correct?

A Yes, because I protected the prisoners in my way.

Q You have indicated to the court, Pauliosek, that those in authority did not know that their orders were not being carried out. Do you mean to say that those in authority did not know that these punishments were not being inflicted by the various capos?

A No, they didn't know that either. It was like this - every evening we would have an orientation and we would receive instructions to in turn instruct the capos under us that the prisoners were not to be mistreated and that every capo had to make a report in case a prisoner would commit some offense, but no such reports were made as long as I was in Flossenburg.

Q You are endeavoring to imply to the court that the camp commandant Koegel and Fritzsch and the rest of those in authority did not know anything about these beatings, is that correct?

A May it please the court in my time there was no camp commandant Koegel when I was there.

Q Then the camp commandant when you were there?

A How was that?

(Thereupon the reporter read the last question.)

A No, they didn't know that. Capos had instructions and orders to report the prisoners and I assume, I didn't see it, but I heard it, I assume that the capos took care of that themselves in that they beat the prisoners and they gave them blows on the ear, as they testified here in court.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SMYLY:

Q What was your rank, tech sergeant or sergeant?

A At Flossenburg I was a tech sergeant and at the front I was made a master sergeant.

(Pauliosek-Court)

Q Just answer the question just as I ask it. When you were at these orientation meetings why didn't you tell people just what was going on, if they didn't know that people were being beaten against their orders. Why didn't you tell them that was going on?

A Didn't I tell whom? The people?

Q The commandant or the ones in authority.

A I wouldn't tell that. You see, I had orders to make a report and if I told them that I beat them, they would have told me, "Why didn't you make a report?"

Q Yesterday you testified that during your stay at Flossenburg you didn't see anyone beat a prisoner with a club or a rubber hose, is that true?

A No, I never saw that.

Q Did you ever hear of that?

A N , I never heard of anything like that.

Q If it happened you would have heard of it?

A Well, I assume so with certainty.

Q During your whole time, as far as you know, there was never anyone beaten with a rubber club or a hose, is that right?

A Yes. Of course, with the exception of these 25 strokes with a stick. I saw these.

Q I am not referring to the official beatings on the wooden horse. I'm not referring to those.

A No, otherwise, I didn't hear of any.

Q You never heard of those beatings until you got in the courtroom and heard these witnesses testify about them, is that true?

A Yes.

LT. COL. SEYLY: Nothing further.

PRESIDENT: The court will take a half hour's recess.

(Thereupon the court recessed at 1000 hours until 1030 hours)

LOSS, TAKE 557 (Whereupon the court reconvened at 1050 hours.)
10/29
Map

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubit , Lipinski, Matzke who are sick in the hospital and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

OTTO PAWLICZEK, an accused, resumed the stand and testified further through an interpreter as follows:

EXAMINATION BY THE COURT (CONTD)

QUESTIONS BY PRESIDENT

Q Now, Pawliczek, the court understands from your testimony that you have stated that anyone who says that anyone was beaten so bad in Flossenburg that he died, was lying. Do you recall making that statement?

A I don't understand the question.

(Whereupon the question was repeated in German.)

A Yes, I assume it definitely. Definitely I don't know of any such cases. Naturally I can only testify about the period of time up to September 1942 as long as I was in Flossenburg.

Q Well then, during the time that you were in Flossenburg, you never saw anybody beaten so badly that he died, is that correct?

(Pawliczek - Court)

Zap

A That is right. If such a thing had occurred, I certainly would have been put in the picture about it. I would have found out about it and the party in question, the capo or the SS man if he had done it, would hav been punished for it.

Q And during the time that you were in Flossenburg, you never heard of a single case where a man was beaten so badly that he died?

A There weren't any such cases.

Did you ever get down around the crematory, Pawliczek?

A Yes, but outside the building.

Q I understand that the crematory was running day and night at various times, is that not correct?

A I don't know that. I had nothing to do with the crematorium.

Q Well, you did hear, Pawliczek, there was plenty of activity around that crematory, that is, during the time that you were in Flossenburg?

A There wasn't much activity. If there had been, I would have known about it. Naturally I heard that prisoners died there and that they had been cremated there. They were naturally cases where the prisoners died.

Q Then I understand during the time that you were in Flossenburg that there weren't so many activities down at the crematory, is that not correct?

A I didn't see anything.

Well, did you hear of many activities around the crematory during the time that you were in Flossenburg?

A No.

(Pawliczek - Court)

3sp PRESIDENT: Further questions members of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q All of these cases -- that is, the two or three per week during 1942 when you beat prisoners for misdemeanors, is that always for stealing bread?

A No, there were other kinds of cases.

Q Like what other kinds of cases?

A As I already mentioned, for instance, when he tried to get out of doing his work which he was supposed to do, and when he was unclean and dirtied up the block. It was my duty to maintain order in the block and if I hadn't taken measures to prevent this uncleanliness, then many prisoners would have been affected by it and would have died because of it. I had no other choice. I had to take steps myself or else make a report about it, and if I had made a report about it, you can imagine what would have happened.

Q Well, what do you mean uncleanliness around the block?

A In my time there were some prisoners who were too lazy to wash themselves even though they had plenty of chance to do that and to take steps against them in order to prevent the other prisoners from coming into danger.

Q Always have water to wash with?

A Yes. In fact, we had plenty of water. When I was there there were between 240 and 250 prisoners in my block and we had plenty of water for them.

Q How much soap did you have per man per week?

A They always had soap. The administration took care of that.

Q How much per man per week?

(Pawlicsek - Court)

4p

A I can't tell you that. I didn't have anything to do with it. I merely saw that the people had soap.

Q How many pounds of soap for the barracks per week?

A I don't know. I assume that the block eldest would know about it. I don't know about it myself. They were the ones who distributed that to the prisoners.

Q You didn't have anything to do with the supply of the men in that block, is that right?

A No, I had nothing to do with the administration of the block. I only had to keep order and to take care that the block was kept clean.

Q Then why did the men who did steal bread steal the bread?

A That is what I would like to know. There was plenty of bread there.

Q Plenty to eat all the time?

A Yes, but there were many of course who could eat three or four portions, or else they would trade it off against tobacco and many people would be satisfied with 20 cigarettes a day and some with ten and there are some people who won't have enough even if they had 60. In that way they stole bread from other prisoners in order to acquire things that they wanted, and in order to stop that the block eldest naturally took preventive measures and also I did. One of them would eat enough food, get enough to eat and the other one would go hungry because any bread that would be stolen would be taken from the fellow prisoners and there wasn't any replacement coming.

Q Tell me if I have the right idea of the system. The block eldest beat people but he must not be seen, is that right?

(Pawliczek - Court)

3sp A He wasn't allowed to beat the prisoners. I didn't see it with my own eyes, but I assume that he did that in order that he punish the prisoners in order to avoid making a report about them because it was well known that a block eldest should always make a report about a misdemeanor that a prisoner committed. The capo didn't have anything to do with the block.

Q You beat prisoners but you must never be caught, is that right?

A Yes, that is right.

Q All other block leaders beat prisoners but they must never be caught, is that right?

A I don't know that. I didn't see it.

Q Wasn't that the system that everybody beat prisoners but he must never be caught and that was put out at these nightly meetings, wasn't that the sense of the talk of Captain Fritzche and Lt. Schirner?

A Yes, it was forbidden to mistreat prisoners.

Q Didn't you pass that on in the same sense to the block eldest and capos?

A Yes.

Q Wasn't that well understood by the prisoners, both the common prisoner and the block eldest and capo and by all of the block leaders and also the leaders of the custody service and the camp commander. Wasn't that common knowledge?

A How do you mean?

Q Wasn't that common knowledge throughout the camp?

A What was general knowledge That they were beaten?

Q It was all right to beat as long as you didn't

(Pawliczek - Court)

6sp get caught.

A I can only say that it was forbidden to beat prisoners. We had to punish the prisoners and the prisoners saw that themselves;because they committed a misdemeanor, they had to be punished and we did it in our own fashion. We did it because we didn't want to make a report.

Q It was all right as long as it was not reported?

A Yes, of course. You can educate the prisoners to maintain order and cleanliness by other means and I decided to act on my own and punish the prisoners in this way and the prisoners were grateful to me that we took care of these misunderstandings like that because if they knew that if I made a report about them, they knew that I would have had a perfect right to do so and in that case, they would have got 25 blows with the stick.

Q Well, that is exactly the point I am making. To put it another way, it was all right and was the policy for everyone to beat anyone who committed a misdemeanor which that particular person in authority thought was a misdemeanor so long as it was not made officially by a report, is that right?

A I don't know exactly how you mean that. It was forbidden to mistreat prisoners, but we did it on our own independently without allowing the leadership of the camp to interfere and straighten out the misunderstandings. We would have been punished ourselves if the leadership of the camp had noticed that we were doing it in our own fasion and not making reports about it. Every evening in those discussions we were told that in such cases, we were supposed to make a report about it and as the court

(Pawliczek - Court)

7sp knows, a prisoner was always much more severely punished when a report went in about him. But it isn't right when they say that a prisoner was ever beaten to death or wounded or carried in injury away from one of those beatings. That is only a hate against us because we are Germans or because we were SS men.

LT. COL. BURCHAM: I have no further questions.

PRESIDENT: Short recess in place.

(Whereupon a short recess in place was taken.)

PRESIDENT: Court will come to order. Further questions members of the court?

QUESTIONS BY COL. JACKSON:

Q You testified yesterday on cross examination, yes I saw capos and block eldests beat prisoners but I looked the other way. That was the unwritten law. Now, what do you mean was the unwritten law?

A I saw that prisoner committed misdemeanors and that they were punished for that, but I can't remember any specific cases. I merely mentioned that I cannot remember any specific cases.

Q But you stated that was the unwritten law. What I want to find out is what was this unwritten law?

A I didn't use that expression.

Q I feel quite sure that it was used and I was wondering if it was an unwritten law for those above you to overlook your offenses the same as you overlooked those under you.

A The way I understand it, the way I meant to express it -- in one regard you would have to look away. You would have to close one eye to it because if I saw such

(Pawliczek - Court)

8sp a thing happening, I would have to make a report about it. I meant to say that I would have had to make a report about the misdemeanor which the prisoner had committed. If he had made me culpabl in any way, I would have had to make a report about his misdemeanor and in order not to report this case, I prefer to loo away. The capos did the same thing. They stopped it by giving the party in question a box in the ear perhaps instead of making a report about it because the capos knew just as well as everyone else that they had to report every misdemeanor of a prisoner.

Q Now, as a block leader did you yourself feel that Fritzche or Koegel if they saw you beating a prisoner would look the other way so that they would not have to report you?

A First of all, Lt. Koegel wasn't commander of the camp in my time at all. I didn't know him at all.

Q Well, any other commander — whoever was the commanding officer

A No, he wouldn't have looked away in that case if the party in question were there at the incident and I were also there, I would have had to make a report about the incident because the party in question would not have said anything at the moment, but he would have waited for me to turn in a report in that evening. If the commander of the camp were present at such an instance, then I would have had to make a report. I had no other choice but no such cases took place.

PRESIDENT: Any further questions members of the court?

QUESTIONS BY LT. COL. SKIALVIG

Q Pawliczek, is it true that you testified that

(Pawliczek - Court)

9sp you never took part in any executions?

A That is right.

Q What have you got to say to the statement of Gelhardt in his own personal statement which is exhibit number 58 that has been accepted by the court, in which he has stated that you were one of the members of the firing squad on which he served in mid January 1942?

A The court knows just as much about it as I do. The court knows that first of all, Gelhardt didn't write that down himself and that the signature which he is supposed to have put there was forced out of him. I ask the court to call Gelhardt to the witness stand and ask him whether I took part in this execution squad.

Well, just a minute Pawliczek. In the first place, this is a statement which Gelhardt made which has been accepted by the court and is not exhibit 74 which has been held in abeyance. I am simply asking you if you ever took part in such an execution.

A I stick to my testimony. The only thing I can say is no.

Q Well, what have you got to say to the statement of Ludwig Finkler which is exhibit number 60 in which he also names you as being on a firing squad in which he took part, the leader being Aumeier?

A First of all, Aumeier was there in 1941. He wasn't there in 1942 any more.

Q I am asking you were you ever on a firing squad?

A No.

Do you know any reason why he should have made that statement about you?

A I assume that he must have made a mistake; to err

(Pawliczek - Court)

10sp is human. I believe that he did it because of hatred or another reason.

Q Do you think Gelhardt made a mistake too?

A Gelhardt didn't even write that down. The English authorities wrote that down for him and forced his signature out of him.

Q I am talking about exhibit 58. I am not talking about exhibit 74. I am asking you if you think he made a mistake.

A Gelhardt didn't write down this report.

Q I am not questioning whether Gelhardt wrote it or not. I am asking whether you think he made a mistake in that statement. That statement has been accepted by the court and is in Gelhardt's handwriting.

A As far as I know Gelhardt didn't mention any name. That is what I understood by the testimony here, the testimony which he made here on the witness stand.

Q What do you mean he didn't mention any name?

A He maintained that he was forced to write that and that was in the report isn't true.

Q Well, you are still thinking about 74 and not 58. I will go to another question here. You have previously testified that you never used any instrument to beat people with, only the flat of your hand, isn't that correct?

A I would have been very careful about beating them with a stick or any other object because if I had done that, they would have had some visible effect of the beating and I would have been severely punished for it. I never did that. Whenever I beat anyone, I hit them with my open hand.

Q All right, what have you to say about this statement

(Pawliczek - Court)

11sp

of Jakubith as exhibit number 63 which has been accepted by the court. His statement reads -- this is speaking of you, "Moreover he beat prisoners with a cudget, fist and kicked them. He was the Pol s threat in the camp".

A I can explain this to the court. I can explain the reason for that but the testimony is not true.

Q All right, go ahead explain it.

A As the court already heard about this, I was sent to the special camp in September 1945 for the purpose of being released here in Dachau. This Lieutenant Paul Guth was there and he took care of the card index files of us, and all the SS men had to report there, any SS men who had any duties at all in the camp -- it didn't matter when and I naturally reported myself also voluntarily. I didn't have anything I wanted to keep secret. And so during the time when I was in the special camp, I learned to know various prisoners. There were some of them -- I don't know their names -- they tried to intimidate others of us in one way or another and they often asked things of us. If you didn't give them what they wanted, then you would arouse an enmity with them. One day I had trouble with the prisoners and they beat me. This case is known to many of the accused.

Q Just a minute. When you say those prisoners, you mean the former prisoners of Flossenburg that were in the lager in Dachau?

A I don't know them, but they maintain that they knew me in Flossenburg.

Q Go ahead.

A I was very careful not to beat back, that I didn't hit them back although they beat me. In the evening

(Pawliczek - Court)

12sp they would call me over to their room very often and this is the way they gave me to understand--

Q Now, just a minute. They called you over to the room? Where did this incident take place, in the lager here in Dachau?

A In the same barracks in the special camp where I was quartered but in a different room. The eldest of these prisoners said to me, "You are a block leader in Flossenburg?" I said, "Yes", and he said, "I was made block eldest here by the American authorities in this barracks among the SS in the special camp" and they said, "You are already leader in Flossenburg and now you think that you are going to draw the long bull among us, but we will show you that you will be block leader here for the shortest time". Then one thing led to another and as a result of this argument they beat me. My whole side was swollen and I chose the shortest route after this beating ended and went to the battalion in order to report the affair and they called me various names during that argument, for instance, terror of the Poles. I told this battalion to inform the American authorities here in Dachau about it because I didn't have any peace any more and I asked them to have me called to an interrogation because various names had been called me among them terror of the Poles.

Do you know who made this accusation against you? Do you know the names of any of these people?

A I can't do that. I don't know them.

Q Have you ever seen them again?

A I saw one of them, Jakoby. Jakoby was there but I don't know whether he beat me and I don't know whether he called me any name because in the confusion I couldn't

(Pawliczek - Court)

13sp tell exactly who was doing it.

Q When you say Jakob --

A But he was in the same room with us.

Q When you say Jakoby, do you mean Jakubith, one of the accused here?

A Yes, and he was together with the other people in this room when this incident took place. They saw me take the shortest route to the battalion and they knew that I was going to make a complaint. So when I came back from the battalion they followed me and followed me into my company there.

They said, "We will sure drive that out of you the fact that you would complain about us."

Q When did all this take place? What was the date of it?

A It was last year during the time when I was in the special camp around December, Christmas time. I was locked up in the bunker and it was in the bunker since then. It could have been around September, it could also have been October -- I can't tell you exactly. I waited in vain for an interrogation. I had asked the American authorities to interrogate me in this matter and around Christmas Mr. Berkowitz called me to an interrogation and instead of interrogating me about this matter, he interrogated me about entirely different things. I kept insisting that I be interrogated about this point but I never got any answer. Mr. Berkowitz kept saying, "Please answer my question".

QUESTIONS BY THE PRESIDENT

Q Just what is the nationality of these men that took the action against you in the lager?

(Pawliczek - Court)

14sp

A I assume they were Germans. That is too bad. I don't know why. I don't know the reason. I don't even know them. I know this one Jakubith. I know him by looking at him. I never had anything to do with him. I only remember him because he was the smallest man in the camp, and for that reason he caused my attention.

Q Were the men in Flossenburg the same with you with the exception of Jakubith?

A I don't know the others, Sir.

Q Now, Pawliczek, how did you treat these Polish inmates in Flossenburg?

A I must tell you quite exactly that the Poles were not segregated at all. They were mixed up with all the Germans and they were treated exactly as any other prisoner and when I was there, the Poles were distributed equally among the various blocks. I didn't have any interest or any reason to mistreat any Pole, but it's possible that among those whom I hit were some Poles, but they had only committed a misdemeanor.

Q What do you mean by "hit" now?

A As I already explained with my hand. I didn't do it any other way.

Q You mean with your open hand?

A Yes.

PRESIDENT: Further questions members of the court?

QUESTIONS BY LT. COL. SMYLY:

Q One witness testified the other day it seems you had a little friction over here in the bunker. Was that friction with some ex prisoners of Flossenburg?

A I didn't have any friction. When prisoners

(Pawliczek - Court)

16.p committed a misdemeanor I would hit him with my own hand and he was grateful to me that I punished him in that way because he knew he deserved punishment and he was glad I didn't make a report about it.

QUESTIONS BY THE PRESIDENT

Q Did these various prisoners tell you they were grateful to you for handling them in that manner?

A They didn't say it but I could notice it the way they acted. If they hadn't been grateful, they would have reported me. I mean to say by that that no prisoner ever made a report against me to the leaders of the camp.

Q Well, do you know of any case in Flossenburg where a capo or block leader was ever disciplined for mistreating a prisoner?

A I can't remember that any such case ever took place when I was there. If such a case had occurred, it would have been my duty to make a report about it. I couldn't have done anything else if a prisoner had received an injury because of being hit because he would have been taken to the hospital and it would have been recorded in the book why he had received that and how it took place. The camp leadership would have found out about it and they naturally would have punished those who caused this injury to the prisoner.

Q Well, why do you suppose these fellow Germans of yours took this action against you in the lager?

A I assume that they are here in the camp for no reason at all, but they are in arrest and as I found out by the various testimony, the prosecution has a way of promising release to the prisoners in order to accumulate

(Pawliczek - Court)

16sp prosecuting material against us and I assume that may have been the reason. Before the trial started, I didn't know why they had denounced me.

PRESIDENT: Further questions members of the court?

QUESTIONS BY LT. COL. TURCHAN:

Q In 1942 when you slapped these 40 or 50 men with your open hand did you do that in private always or in public?

A I did it on the spot where the thing took place where he was caught.

Q And other prisoners would see you do that?

A Yes, definitely. I remember hearing them say "That block leader is O.K. He doesn't make any report. He takes care of it himself."

Q Well, why would the others then -- why would the following prisoners be so scared that they would fall down when you went after them?

A That is too much when you say I was after them. There were some of course who fell down because they were afraid. I don't know why. I am not saying that I never beat any prisoner. I am just saying that no prisoner ever fell down because of a blow I gave him because I don't have that much strength anyway.

Q Well, I would like for you to explain when it must have been common knowledge how lightly you struck these prisoners, why any others would be scared of you.

A They weren't afraid of me. They were afraid of the blow I was giving them. I must say that in the morning when I came to the block all the prisoners would flock

(Pawliczek - Court)

17sp around me and bring all their personal matters to my attention;if they had something in their heart they would tell me about it, but I don't believe they had any direct fear of me.

QUESTIONS BY LT. COL. SKIELVIG

Q Pawliczek, suppose a prisoner was badly beaten by a clock eldest and so badly beaten that he needed hospitilization, but like so many other times in Flossenburg he wasn't able to get it and he lay in the block for sometime and after awhile he recovered and when it came time for him to be in such a condition, he would like to make a report about that supposed block leader. Just how would he go about making such a report?

A No such cases ever took place. If a prisoner had been beaten so badly that he was wounded, he wouldn't merely have been put into a bed. They wouldn't just have said to him you stay there until you are healed. He would have been treated in the following way. If it happened in the block as you mentioned and a prisoner had been beaten and was hiding in the block, he would still have to attend every rollcall and someone would have noticed that he had a wound, that he was bleeding.

Q Say for instance though he did get well and he still wanted to report that block leader. How would he go about it? Woud he make an official report to the block leader who did the beating or could he go directly to the camp leader, or would he go directly to the camp eldest? How would he do it?

A If a report were going in about me concerning me, the report would not have gone through my hands. I never would have got it in my hands.

(Pawliczek - Court)

18sp

Q Where would it have gone to?

A The prisoner had a right to stop the rollcall leader or the leader of the protective custody camp on the rollcall square. No one ever forbad him to do this and then in that case, he would have to make a definite report and I would definitely have been called to account and punished and if it had been a minor affair, I would at least have been reprimanded or transferred.

Q All right, now I am not talking about you, in this particular question now. What I am asking you: Do you know of any case such as that ever taking place where a prisoner went to the rollcall leader and made a personal report to the block leader or any capo?

A Such cases never took place. I can't express any.

Q But that was a supposed right a prisoner had?

A The prisoner had a right to make complaints.

PRESIDENT: Any further questions members of the court?

QUESTIONS BY LT. COL. BURCHAM

Q Would a dirty prisoner have been given 25 blows if you had reported that?

A I don't know how the camp authorities would have looked at that. I assume if I had made a report about this uncleanliness, then he certainly would have been punished more severely.

PRESIDENT: Any further questions members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION (CONTINUED)

QUESTIONS BY DR. WACHER

Q You said that you daily got instructions regarding

12ep the prohibition of beating.

A That is right.

Did these instructions refer only to hitting, to beating or were other instructions given you also?

A We had other instructions beside that.

Q What instructions were they?

A Not to have contact with prisoners, to always keep a distance of six meters from them and they explained the following to us. If any of us commit any misdemeanor at all, the block leader can't save us from punishment. Well, we had to forward that on to Berlin. We had other duties when I was there. A block leader had very many duties. We never regained consciousness. That is today, we had so much to do that we scarcely had time to go home and eat. We had to censor the mail which arrived and left the camp -- the prisoner's mail and we weren't allowed to do that during working hours because we had to supervise the prisoners at their work during working hours. We could only do that in the evening after the roll call, but we weren't allowed to take the mail home with us. That was severely forbidden. Naturally we would take the mail home with us. We would hide it and take it home secretly because I wanted to dedicate a few hours to my family. We did a lot of things which the camp authorities never got wind of, but the prisoners were never harmed by that.

Q There has been a lot of talk about these 25 blows with the stick which people got on the wood horse. Was there a set amount of 25 blows with the stick or was it more, or how did the amount of blows come to be -- how was that determined?

A I must say that I heard people talking about cases

(Pawliczek direct)

20sp where Berlin ordered prisoners to receive 50 blows with a stick.

Q What was the mildest punishment which Berlin condemned a prisoner to?

A I don't know. I never had anything to do with that. I never had anything to do with punishmets but I can explain this case with the 50 blows with the stick.

Q I am not interested in these 50 blows of the stick; I am trying to find out what the mildest punishment was for a prisoner.

A I already said I don't know that. I had nothing to do with that.

Q Don't you know of any milder punishment than 25 blows with the stick?

A Yes, they could confine themselves also.

Q That is what I asked you and that is what I would like to know and that is what the court wants to know.

A But in my time I as a soldier knew that when people were confined they didn't get orders for this confinement from Berlin. Looking at it as a soldier, looking at it as troops, I know that this punishment could come from the commandant of the camp.

Q Can you give us the various degrees of punishment which might be given to prisoners? I mean give us the chain of command to which a report would go to the camp authorities if a prisoner had committed a misdemeanor.

A I don't understand your question.

Q If a prisoner had committed any misdemeanor and this misdemeanor is reported to the camp authorities, the top authorities according to order, what punishments could

(Pawliczek - Court)

21sp be drawn into consideration for a prisoner in such a case? According to your best knowledge and according to your opinion what would be the highest punishment a man could get and what could be the mildest punishment?

A It all depends what the prisoners had done.

Q Of course it depends on what he did and that is exactly what I am trying to find out, what is the mildest punishment you had and what is the entire scale of degrees of punishments which a prisoner could get?

A All I can tell you is there was arrest confinement and then blows with the stick.

Q How many?

A That all depended on the particular misdemeanor he had committed.

Q Was anyone ever punished with one blow of the stick?

A I never saw that.

Q What was the mildest, the least number of blows with the stick that you knew about?

A In my time I believe there were set numbers of 10 and 15 and also five but I don't know with certainty, but I don't believe there were any less than five.

And what is the highest number of blows with the stick that you knew about?

A 50 blows with the stick but the 50 blows with the stick were not given out all at once. As I saw it and heard it the prisoner would get 25 blows with the stick and then a number of days would pass or perhaps a number of weeks and then he would get the other 20 blows with the stick and I know about them having read orders to the prisoners saying that the 50 blows with the stick had been

22sp ordered from Berlin.

Q Do you know how long that usually took before a punishment was carried out starting with the time when this report was handed in at command headquarters?

A I can't tell you that. I didn't see anyone ever make any report of that nature.

Q For instance if you didn't report a prisoner, he had committed a misdemeanor such as stealing bread or he had reported late to the rollcall and you were to be punished for not making a report, when did your punishment take place?

A I would already give the prisoner some slaps on the ear on the spot where the misdemeanor had been committed in order not to make a report.

Q Did you give the prisoner these slaps on the ears immediately following after you had found out that the prisoner had committed this misdemeanor?

A Of course and you can't make any comparison between that and the 25 stick blows, the stick blows which Berlin had ordered because I assume that when a report went to Berlin there was an interval of time between the time that the report went in and the time that the prisoner got his blows with the stick.

Q Was the reason why you didn't report those prisoners because you wanted to spare them and you wanted to let them off easy, or did you have other reasons for taking the action into your own hands?

A In that case it is right. I was protecting the prisoners from more severe punishments.

DR. ACKER: No more questions.

PRESIDENT: Further questions on the part of the defense? Mr. Mac Kay?

(Pawliczek - Redirect)

23sp

MR. MAC KAY: Nothing further.

RESIDENT: Recross?

PROSECUTION: Nothing further, Sir.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT (CONTINUED)

QUESTIONS BY THE PRESIDENT

Q Now, Pawliczek, do you desire to make any further explanation to the court or any further statement to the court at this time?

A I would like to say a few remarks about Paul Tuermer.

Q Proceed.

A Paul Tuermer appeared as a prosecution witness against me and maintains in October '42 I was supposed to have beaten a prisoner in the railroad station so badly that he later died in the hospital because of it. I believe I had proven that already there have been witnesses to prove that and there are other witnesses which are coming who will also prove that that isn't true, that starting on 21 September 1942 I didn't have any more duties in Flossenburg and beside that he maintains that I ordered a capo to beat this prisoner before I beat the prisoner. Because the capo refused to carry out my order, I beat the prisoner myself.

Then he maintains that I made a report to the camp authorities in the evening when the work detail came back to the camp from work and made a report about this capo and claimed that he had refused to carry out my order. First of all, such cases never took place with me and in the second place, in October 1942 I wasn't in Flossenburg any longer. As I already said, starting with

(Pawliczek - Court)

24ap the 21st of September 1942 I had nothing more to do with the camp.

Beside I will be able to prove that through the witness Bartl/Neumeier who was the capo who was supposed to have got the 25 blows with the stick because of this report I made about it to the effect that he didn't carry out my orders. This man is at liberty and it cost me to sweat to get him here and I am glad that he is coming. That was a capo as far as I knew him who was just like all the other capos who never harmed any prisoners and no SS man ever made a report about him. I am sure of that. This capo Bartl/Neumeier was in the unloading detail from 1938 to 1943. I don't know the time and he will testify here in court that during this whole period when he was in Flossenburg from 1938 to 1943 that he never got any blows with the stick at all -- never because of me or through me or because of any other person. I believe that Paul Thermer is of the opinion that this trial is going to move as fast as the Dachau trial and that we will all be run over and we won't have any chance to call any defense witnesses for ourselves. We certainly thought I never would have had a chance to call this party here as one of my own witnesses.

PROSECUTION: Now I object to this line of chatter as being grossly improper, has nothing in the world to do with the issues of this case. This preview of what witnesses will expect to testify in the future is proper perhaps in the opening argument of counsel, but so far as having any material bearing on the issues of this case, that is absolutely not proper coming from this witness.

PRESIDING: The court sees fit to caution the

(Pawliczek - Court)

25sp witness at the present time not to mention anything that he is certain the witness is going to testify to but simply to explain that he will testify in your behalf. When that particular witness appears before this court, the court will give full due consideration to his testimony. All right, proceed.

A Beside that this prisoner claims that he saw in Flossenburg in the spring of the year 1943 and that is a contradiction -- the whole thing. I regret that the American soldier took my pay book away from me because in this book it is written in black and white exactly when I left Flossenburg and I don't know where this book is now but it is completely lied a out.

Q Anything further? Do you have any further statements to make to the court?

A And Toermer also testified that he was supposed to have been at the niversity, that he had studied as a student at the University of Heidelberg and Thuebingen. I have asked my defense counsel, Dr. Wacker, to check up on this matter because I thought right away that Paul Thermer was lying and I believe that Dr. Wacker can back me up on that. I don't know exactly what he has there in his hands.

PRESIDENT: Proceed doctor.

DR. WACKER: Will you mark these please?

(Whereupon the documents were marked Defense Exhibits Nos. 35 and 36 for identification.)

DR. WACKER: Pawliczek, I am giving you a document marked as Defense Exhibit No. 35 and I ask you if you know what it is.

PROSECUTION: May it please the court, I would like to have a translation of this before so I can see what it is to object to. I think it's almost closing time (Pawliczek - Court)

25sp now and that could be done during the recess.

PRESIDENT: The court directs that a translation be made of those particular proposed defense exhibits, Dr. Wacker, that those translations be available by 1:30 this afternoon. Colonel Wilson, can you take care of that?

DEFENSE COUNSEL: Yes, I think the facilities back there are sufficient.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Whereupon at 1200 hours the court recessed.)

AFTERNOON SESSION

(Whereupon court reconvened at 1340 hours.)

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Olschewski, Oswalt, Jakubith, Lipinski, Matzke, and Joseph Becker, who are sick and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

OTTO PAWLICZEK, an accused, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: Dr. Wacker, redirect.

DR. WACKER: Will you mark these documents Defense Exhibits 35-A and 36-A for identification, please?

(Whereupon the documents referred to were marked Defense Exhibits 35-A and 36-A for identification.)

REDIRECT EXAMINATION (Continued)

QUESTIONS BY DR. WACKER:

Q Mr. Pawliczek, I hand you this document which has been marked Defense Exhibit Number 35 for identification and ask you if you know what it is.

PROSECUTION: I object to the question, may it please the court, on the ground that it is immaterial and irrelevant to the issues in this case and it purports to be a form of impeachment. It is not proper as the record does not indicate that Paul Tarmer attended either Thuebingen or Heidelberg University.

PRESIDENT: The court will give Colonel Wilson a chance to reply to that.

58-srh-10/2-2

DEFENSE COUNSEL: My recollection was that the matter was brought out somewhere in Törmer's testimony in connection with his alleged medical or pre-medical qualifications.

PRESIDENT: Court will take a short recess.

(Whereupon at 1350 hours the court recessed.)

(Whereupon the court reconvened at 1105 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, an examination of the record here does not reveal that the witness Törmer ever at any time mentioned either Heidelberg or Thuebingen, or any other place. If the court please, I would like to read the record with respect to that portion of the witness' testimony that pertains to the interrogation concerning the use of narcotics and his knowledge of it and where it was acquired -- that is, of course, if the court deems that necessary.

PRESIDENT: The court does not feel it will be necessary, Mr. Prosecutor, unless you can give us a direct reference to the matter at hand. Do you recall definitely how many times Törmer appeared before the court?

PROSECUTION: I recall, may it please the court, that he testified on the presentation of the case by the prosecution. He thereafter appeared on August 26th and 27th on behalf of the defense.

PRESIDENT: With reference to your statement, Mr. Prosecutor, you have checked the record covering the testimony of Mr. Törmer, both from the standpoint of the prosecution and the defense?

PROSECUTION: Yes, sir.

DR. FACKLER: I have just checked the record and I have not found the words "Thuebingen" or "Heidelberg", the names of these universities in the record, but I know exactly at what spot Törmer mentioned these names Heidelberg and Thuebingen, and as far as I know, in this regard, the record is not complete. My colleague, Dr. Engelhorn,

558-srh-10/29-3 oen back the same thing up. I discussed with him at that time that the testimony of Paul Tormer was enough to cause me to write to these universities, Heidelberg and Thuebingen, to check up on the matter, and for this reason I got a hold of these documents but I see that according to the record I cannot prove that.

PRESIDENT: Mr. McKay?

MR. McKAY: If the court please, the record which is referred to is page 2770. It is in response to a question put by me, "How far did you pursue your medical studies?" The answer as the record shows it, was, "Up to the fourth semester, up to physics."

PRESIDENT: Mr. McKay, all the court wants to find out is whether or not those universities, Heidelberg and Thuebingen were actually mentioned by the witness Tormer and whether the record so indicates.

DR. WACKER: No, it is not in the record.

MR. McKAY: It is not in the record, sir. That is the question. I do not know whether this interpreter was on at that time. (To the interpreter): Do you recall?

INTERPRETER VELTE: I do not remember.

PRESIDENT: Anything further, Mr. McKay?

MR. McKAY: Nothing further, sir.

PRESIDENT: Anything further, Dr. Wacker?

DR. WACKER: I must merely maintain unfortunately that the record in this regard is not complete. If it had not been said here in court I would never have had the idea of writing to Heidelberg and Thuebingen Universities in regard to Tormer. What I can prove through other people who were here at that time is that the witness Tormer did say that then.

PROSECUTION: May it please the court, it is a novel

558-srh-10/2-1

proposition of procedure when the idiosyncracies of counsel could be used to determine whether or not the record is complete or incomplete. I submit that the record is accurate on its face. The reason why I asked for a further translation of the documents that had been offered was the fact that I had not remembered Paul Törmer testifying to the matters that he was alleged to have testified to. The record is supposed to be binding on this court unless there is an error which has been committed, which the court is satisified is an error, and does not make the record speak the truth. But I do not think that it would be proper for the court to take the word of counsel as opposed to what is contained in the record in making a decision on a matter of impeachment.

PRESIDENT: Colonel Wilson?

DEFENSE COUNSEL: May it please the court, unfortunately there has been from time to time in this trial a little difficulty about getting the record on time and checking it and all that sort of thing. I wonder if I might offer the suggestion that this matter be held in abeyance and the reporter's notes be checked back, but in the meantime, we go ahead with the next thing on the docket in the case.

DR. WACKER: I must mention here that the part of the record in question is the testimony of the 26th of August, and this letter which Colonel Wilson wrote to these universities on my behalf is dated the 29th of August.

PROSECUTION: I submit, may it please the court, that that is of no probative value at all. He may have had a conversation with Paul Törmer outside of the courtroom. The point is what Paul Törmer testified to in this court.

DR. WACKER: That is impossible. It is not possible that I am in error here and I beg my colleague, Dr. Angelhorn, to verify that.

58-srh-10/29-5

PRESIDENT: This matter will be held in abeyance for the time being and the court directs, Mr. Prosecutor, that the notes of the reporter on that particular date be checked to make sure that the typewritten report of the case actually agrees with the notes of the reporter at that indicated time. Of course, doctor, if there is not any evidence to the contrary as to any inaccuracies as far as the record is concerned, the court must rely strictly on the record.

Court will take a short recess.

(Whereupon the court recessed at 1415 hours.)

(Whereupon the court reconvened at 1425 hours.)

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present, with the exception of Mr. Denson, who is now in the clerk's office checking the record at the particular time requested, and Mr. Pinter, who is absent on business of the prosecution, all the members of the defense are present, with the exception of Dr. Engelhorn, who is absent on business of the accused, all of the accused are present, with the exception of Olschewski, Oswalt, Jakubith, Lipinski, Matzke, and Joseph Becker, who are sick in the hospital.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

OTTO PAWLICZEK, an accused, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: The court would like to have the reporter read the last statement of the court.

(Whereupon the last statement of the court was read by the reporter.)

PRESIDENT: Defense, proceed.

DR. WACKER: In regard to this question I would like to ask the court a favor. I have just found out that some of the court reporters look up the interpreters in the coffee room after the

proceedings have ended and try to find out the spelling of various German cities, rivers and so forth. I beg the court to order that if a court reporter does not immediately understand a certain German name and know how to spell it, that she then ask for it right then and there. I have found out that many names in the record are misspelled and in many cases that leads to misunderstandings.

PRESIDENT: That has been the policy of this court since the first day this court went into session. The court has taken particular pains with new reporters when they come before the court to so advise them. These reporters have had every opportunity to call for the spelling of any word about which there is any question. That has been an established policy of the court.

DR. WACKER: I am not making any reproach to the court. I was merely trying to call it to the court's attention so that the court could in turn call it to the attention of the court reporters.

PRESIDENT: As the court has stated previously, that has been done repeatedly.

Doctor, if you can give the court any concrete evidence along the lines of the matter under discussion, the court will consider it at that time. The court must have positive evidence before reopening this matter for discussion. Anything further from the defense?

DR. WACKER: No.

PRESIDENT: Prosecution, anything further?

PROSECUTION: Nothing further, sir.

PRESIDENT: Any further questions by members of the court? Apparently not. The court understands the defense is finished as far as this particular witness is concerned for the time being?

DEFENSE COUNSEL: May it please the court, I understand that the question of these exhibits offered for identification as to which the discussion has arisen is in abeyance until the reporter's notes can

958-srh-10/29-7 be checked. Otherwise we are through.

PRESIDENT: That is right. In other words, Colonel Wilson, if there is actual evidence that has previously come before this court, referring to the testimony of Tormer relative to his attendance at either Heidelberg University or Thuebingen University, the court will reconsider the matter at that time. The court understands that the defense have finished as far as this witness is concerned?

DEFENSE COUNSEL: Yes, sir.

PRESIDENT: The witness will be excused and resume his place in the dock.

(Whereupon the witness was excused and resumed his place in the dock.)

PRESIDENT: Dr. Wacker?

DR. WACKER: The defense calls Bertl Neumeier as its next witness.

PRESIDENT: Off the record.

(Discussion off the record.)

PRESIDENT: On the record.

BARTOLEMEUS NEUMEIER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DR. WACKER: I must explain that this witness has also been called on behalf of the accused Pawliczek.

MR. McKAY: Just to clear it up, this witness is being called on behalf of the accused Pawliczek, and not for the defense as a whole.

PRESIDENT: Proceed, doctor.

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Bartolameus Neumeier.

Q What are you usually called by your first name?

A Bartl.

Q How old are you?

A 34.

Q Where is your residence?

A Augsburg.

Q What is your profession there?

A Butcher.

DR. WACKER: Please speak as loud as you can so that everyone in the courtroom can hear you.

QUESTIONS BY DR. WACKER:

Q Were you ever a prisoner in Flossenburg?

A Yes.

Q From when to when?

A From 1938 until 1943.

Q Were you released in the year 1943?

A I was first sent to Sachsenhausen and from there I went to the punishment company.

Q To what work detail in Flossenburg were you assigned?

A The unloading detail.

Q What period of time were you with the unloading detail?

A From 1938 until 1943, till the end.

LAW MEMBER: Will you repeat the answer, please?

(Thereupon the answer was repeated by the reporter.)

PRESIDENT: Doctor, the court desires you to verify that last statement -- "to the end" -- just what he meant.

QUESTIONS BY DR. WACKER:

Q How long were you with this unloading detail?

A Until 1943.

Q Up until that time when you left Flossenburg?

A Yes.

958-srh-10/29-9

Q Was that the only work detail with which you worked in Flossenburg?

A There were only six of us who worked in this detail, -- that is, in the unloading detail -- and next to us worked more men. That was an entirely different work detail.

Q Mr. Neumeier, I asked you if you were with the unloading detail the whole time you were there.

A Yes.

Q According to what you said, were you with this unloading detail from the first of January, 1942 until October, 1942?

A 1942 until --?

Q From the first of January, 1942 until October, 1942?

A Yes.

Q Where did this unloading detail work?

A At the railroad station.

Q At which railroad station?

A The Flossenburg railroad station.

Q What did this unloading detail do for work?

A All in all?

Q Yes.

A We had to unload stone fragments from the stone cutters in the quarry at the railroad station, food, -- everything you could think of.

Q How many men worked in this unloading detail?

A Six prisoners.

Q Were they permanent workers in the detail or were they constantly changing?

A These six men were always the same ones, from the beginning till the end.

Q Just a second here. What do you mean by "the beginning" and

(Neumeier-Direct)

what do you mean by "the end"?

A I mean from the time I started with the unloading detail in '38 until the end of my stay there in '43.

Q Can you give us the names of the workers in this unloading detail?

A Yes.

Q Who were these people who were working in the unloading detail?

A The following: Paul Strokinski, S-t-r-o-k-i-n-s-k-i.

Q Who else?

A Walter Preusse.

Q Who else?

A Willi Israel, Hans Aumiller, Juelich -- I don't know his other name -- Neumeier.

Q When you say "Neumeier" do you mean yourself?

A Yes.

Q Did this unloading detail have a capo?

A Yes.

Q Who was he?

A I myself.

Q When did you become capo of the unloading detail?

A '39.

Q Mr. Neumeier, do you know a man by the name of Pawlicsek?

A Yes.

Q Could you pick him out if you saw him here?

A Yes.

Q Please stand up, look at the people in the dock and attempt to identify him.

A Here, up there (indicating).

Q Please point at him.

(Neumeier-Direct)

A (Indicating).

DR. WACKER: May the record indicate that the witness has correctly identified Pawlicsek as number 34.

THE WITNESS: I beg your pardon, may I say something here?

PRESIDENT: What is the nature of it?

THE WITNESS: I was asked about the strength of this work detail and I said six men were in it and we were always the same people, the people who went off to work at the railroad station, and in the fall when many potatoes and much coal arrived, sometimes ten railroad cars full, then we would receive one, two, three or four extra men to help us work for two or three days.

PRESIDENT: All right, proceed, doctor.

QUESTIONS BY DR. WACKER:

Q In 1942 did you have anything to do with Pawlicsek in Flossenburg?

A He was work detail leader.

Q What detail did he have?

A Unloading detail.

Q How long did Pawlicsek have this unloading work detail?

A I don't know exactly any more but a considerable period of time.

Q Mr. Neumeier, in 1942 did you ever get 25 blows with a stick?

A No, on my word of honor, I didn't.

Q Did you ever fail to carry out an order which Pawlicsek gave you -- the order was for you to beat a prisoner?

A I never got any order. If I had I wouldn't have carried it out.

Q Did anything unusual happen during the time when Pawlicsek had charge of the unloading detail?

(Neumeier-Direct)

558-erh-10/29-12

A I can't think of anything.

Q Did Pawliosek beat the prisoners?

A Nobody was ever beaten in the unloading detail. I don't know anything about what went on up there in the camp. We were off to work in the morning and didn't come back until evening.

Q Neumeier, I am only talking about this unloading detail in the railroad station.

A I understand.

Q I am asking you whether a prisoner was ever beaten there by Pawliosek.

A No.

Q If that would have happened, would you have known about it?

A On my word of honor, nobody was ever beaten in the unloading detail.

DR. WACKER: No more questions.

PRESIDENT: Dr. Engelhorn?

DR. ENGELHORN: I would like to interrogate this witness in regard to the accused Winkler.

PRESIDENT: Is this in the form of cross examination or direct?

DR. ENGELHORN: Direct examination.

PRESIDENT: Proceed.

QUESTIONS BY DR. ENGELHORN:

Q During your stay in Flossenburg, did you ever learn to know a man named Winkler?

A Yes.

Q Would you recognize him if you saw him today?

A Yes.

Q Take a look around and see if he is sitting there in the

(Neumeier-Direct)

38-srh-10/29-13 dock with the other accused.

A Yes, up there (indicating).

Q What number?

A 49.

DR. ENGELHORN: Let the record indicate that the witness identified number 49 as Winkler.

QUESTIONS BY DR. ENGELHORN:

Q On what occasion did you learn to know this Winkler?

A He was also a work detail leader of the unloading detail.

DR. ENGELHORN: You will have to speak a little louder.

THE WITNESS: I understand.

QUESTIONS BY DR. ENGELHORN:

Q What did he have to do there?

A He was there as guard, as a work detail leader.

Q What kind of a rank did he have? Was he with the SS?

A He was a sergeant with the SS.

Q Did he have several guards with him?

A We were six men. Six of us worked at this detail and there was a guard for each worker and then there was a commando leader.

Q Please explain to the court how Winkler treated the prisoners.

A I can't say anything bad about him. I must say that during the break when bread was given out some of the guards would laugh at us and they looked at us with pity in their eyes and we thought that the guards had showed mercy toward us, that they pitied us and whenever any one of us would take a look over at the guard they would ask us why we were smirking so maliciously.

Q What do you mean by that?

A (Answering in German)

PRESIDENT: (To the accused) At ease.

(To the interpreter): Whenever the court cautions any of the

(Neumeier- irect)

558-erh-10/29-14 accused I want you to stop the translation right then and there and repeat it.

(Whereupon the interpreter did as directed.)

PRESIDENT: Go ahead.

THE WITNESS: The guards often looked as though they pitied us and when we thought they had pity for us and we looked over at them friendly like, then they would ask us, "Why are you smirking like that at us?" And the detail leader Winkler would always come over and say, "Leave them alone, I am commando leader here." And his wife would now and then bring bread for the work detail leader. She would bring bread and milk for her husband he he would let one and then another drink some of this milk.

PRESIDENT: Doctor, caution this witness to stick to the material issues of the case. The court does not desire all these small details.

QUESTIONS BY DR. ENGELHORN:

Q Mr. Neumeier, please stick to answers to my questions. You just said that Winkler would get some milk and would let various people drink some of it. Who would he let drink it?

A People in the unloading detail, we six prisoners in the unloading detail.

Q Did you ever see or hear about Winkler ever beating a prisoner?

A There wasn't good talk going around in the camp. Nobody was ever beaten at the railroad station.

Q How long did the daily work last at the railroad station each day?

A Usually from six or seven in the morning until six or seven at night.

Q Where did you eat your lunch?

(Neumeier-Direct)

558-srh-
10/29-15

A In a small shack for civilians.

Q Where was this shack, in the camp or at the railroad station?

A It was down there at the railroad station.

PRESIDENT: Court will take a half hour recess.

(hereupon at 1500 hours the court recessed until 1630 hours.)

(whereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the Prosecution, all the personnel of the defense are present, all of the accused are present with the exception of Czwalt, Olszewski, Jakobith, Lipinski and Matake, who are sick and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath; and, if any spectators are in the court room who expect to be called as witnesses in the case, will they please leave the court room?

BARTHOLOMEUS NEUMEIER, called as a witness for the Defense, resumed the stand and being reminded that he was still under oath, testified through an interpreter further as follows:

PRESIDENT: Proceed, doctor.

DR. BENDUCHEN: No further questions.

PRESIDENT: Any further questions on the part of the Defense?

DEFENSE COUNSEL: No, sir.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Mr. Neumeier, you worked right next door to the loading detail, did you not?

A Yes, yes.

Q And the loading detail was also in charge of Pawliczek, was it not?

(Neumeier-Cross)

A Part of it, yes; but there was also another detail leader next door.

Q Well, was Pawlicsek the detail leader of this loading detail from January 1, 1942 until October, 1942?

A Unloading detail?

Q Loading detail.

A Loading detail?

Q Was Pawlicsek the detail leader of the loading detail from January 1, 1942, until October, 1942?

A I don't know that exactly. It was constant change.

Q Well, who were the detail leaders of this loading detail from January 1, 1942, until October, 1942?

A 1941, 1942? That was Pawlicsek; and Bunder was down there as well; and Moule and Kuebler and Fries was down there for several days.

Q Did you say that Winkler and Pawlicsek were the detail leaders of the loading detail between January, 1942, and October, 1942?

A Who is supposed to have said so?

Q I will ask you this question, Mr. Neumeier. Were Winkler and Pawlicsek detail leaders of the loading detail between January, 1942, and October, 1942?

A They were always with the unloading detail. They were in charge of the unloading and loading detail.

Q They were in charge of the loading and unloading detail then, is that correct?

A One week Winkler would be with either the loading detail or the unloading detail; and next week Pawliczek would be in charge of them. There was a constant change.

Q All right, now, how many men worked in this loading detail between January, 1942, and.....

A I don't know that. I wasn't there. Approximately around 20 men, something like that--between 15 and 20 people.

Q And these two details worked side by side, did they not?

A Yes, but there was a line between them consisting of guards, SS guards.

Q And did you talk over this matter about there being a line of SS guards between the two details with Dr. Wacker?

A No.

Q You never discussed this matter of the line of guards between these two details with Dr. Wacker prior to the time you testified on this stand?

PRESIDENT: Just a minute. The witness indicated "no".

PROSECUTION: I don't care whether she interprets that to the witness before the objection is made or not.

PRESIDENT: Did you interpret the answer?

INTERPRETER: There was none.

PRESIDENT: Yes, there was a previous answer.

INTERPRETER: Yes, the answer was "no".

DEFENSE: May I have the last question read?

(Thereupon the question was read by the reporter.)

DEFENSE: Object to it on two grounds--one, that it is repetitious, and the other that it is privileged. If we are going to have everything that we have done with our clients interrogated by the Prosecution, we had better quit and let the Prosecution handle the

Defense.

PRESIDENT: The Court will give you a chance to speak, Mr. Prosecutor. Make it brief.

PROSECUTION: This man is not the client of any one of these men over there in this trial. I have a perfect right to find out how frequently and to what extent he discussed and went over this testimony with Mr. Wacker or anyone else. It is not repetitious because of the fact that it is not the same question that was asked the witness before.

DEFENSE: The same question slightly re-worded.

MR. WACKER: I, on my part, don't object to the line of questioning on the part of the Prosecution. The Prosecution may go right ahead with that line of questioning.

PRESIDENT: Objection overruled.

THE WITNESS: The guards between the details?

PRESIDENT: I don't believe the witness understood.

QUESTIONS BY THE PROSECUTION:

Q Mr. Neumeier, have you ever at any time discussed this matter of a line of guards between these two work details with Mr. Wacker before the time you testified on this trial?

A No.

Q Now, have you ever discussed this matter of a line of guards between these two work details with anyone else before the time that you testified to that matter on this trial?

A You mean when I got here first?

Q At any time prior to the time that you took this witness stand and testified before this Court.

A No.

Q Do you know what treatment Pavlicek gave the prisoners that

(Neumeier-Cross)

worked on the loading detail?

A No.

Q Were you present, Mr. Neumeier, every day that the unloading detail worked during the year of 1942, from January up to October of that year?

A In the meantime, I was in the hospital for eight days due to a sickness.

Q And during that period of time was that sickness?

A I don't remember that any more.

Q All right, sir. What is your best judgment as to whether it was before or after July 1st of that year?

A It was in the fall; we were unloading potatoes at that time. We were unloading potatoes with forkes and I stabbed myself.

INTERPRETER: Strike that last statement and make it, "another comrade stabbed me by mistake, and I got an infection, and my arm was swollen."

CROSS-EXAMINATION BY PROSECUTION:

Q Now you stated that the talk was not good concerning Winkler in the camp. Is that correct?

A Yes, from what I heard.

Q And what was the nature of what you heard, please?

A I can't keep anything in memory. I can't memorize it. I had only four years of schooling.

Q All right, sir. What, if anything, do you recall about Winkler that was talked about in the camp that was not good.

A I probably named them. Staff Sergeant Winkler and Staff Sergeant Pawlicezek. When I was in confinement, in captivity, in Cherbourg at the time of the executions.

Q And what else?

(Neumeier-Cross)

INTERPRETER: I am sorry, may I correct myself? The word was not "executions" but "shootings".

PRESIDENT: Read the full answer.

(Whereupon the answer was read by the reporter.)

INTERPRETER: That was "that they were present at shootings".

PROSECUTION: No further questions, sir.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. HACKER:

Q When did these shootings take place?

A I don't know when the shootings took place. I don't know exactly when it was--1942, something like that.

MR. HACKER: No further questions.

PRESIDENT: Recross?

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Now, just what shootings are you referring to?

A We were in our blocks in the evening, and we saw how the Staff Sergeants marched off. May I ask a question?

Q Just answer the question.

A Staff Sergeant Winkler, himself, admitted it. When I got here, I told Staff Sergeant Winkler about it, and he told me that he, himself, could have admitted it already; and he told me that it is right.

Q When did you talk to Winkler?

A When I arrived here to appear as a witness.

Q How long ago was that?

(Neumeier-Court)

A I was confronted.....

Q Just answer my question. Just when did you talk to Winkler?

A Just a moment: In October, yes, I think it was in October when I first got here to appear as a witness.

Q You say Winkler at that time admitted that we attended some of these shootings?

A At that time I told the lawyer that I had named Winkler in Cherbourg, and thereupon Winkler said, "Yes, that's right, but I myself admitted that already, but that didn't count, because it was prior to 1942."

THE LAW: I didn't get that last part.

INTERPRETER: But that didn't count, because it was prior to 1942.

QUESTION BY THE PRESIDENT:

Q Just when were these executions supposed to have taken place? When were these shootings supposed to have taken place?

A Now that was when they went out there with their carbines?

Q When were these shootings supposed to have taken place? What year?

A It was around 1942.

Q But you are not sure?

A No, I am not sure. We only saw them going down to the shooting range with their carbines. We watched them from our block, Block Number 1.

Q Just where did these shootings take place?

A Down there at the shooting range, near the crematory. That is, I didn't see it personally. I never was down there myself. We

(Neumeier-Court)

could only see it from the window--how prisoners are taken out from the a rest building, and saw the Staff Sergeants go down there.

Q That was in Flossenburg?

A Yes, in Flossenburg.

Q And you are not positive just when that was? What year?

A No, I am not sure. I don't want to tell lies. I am not sure.

PRESIDENT: The Court wants you to tell the exact truth. If you are not sure, say so. Any further questions by members of the Court?

QUESTIONS BY THE LAY MEMBER:

Q What time in 1943 did you leave Flossenburg? What month?

A What month? I don't know any more what month.

Q Was it in the spring, summer or winter?

A It was later than spring.

Q Well, now, do you know whether Pawlicsek was still there then, or had he gone?

A He had left. Many block leaders had been transferred to be put into action. I don't know where they were sent to.

Q You didn't answer my question. Do you know whether Pawlicsek was still there then, or had he left prior to 1943?

A I don't remember that, exactly.

Q Do you remember whether Pawlicsek was the leader of your detail Christmas 1943--I mean Christmas 1942?

A No, I can't remember.

Q What was your serial number in Flossenburg?

A 264.

QUESTIONS BY THE PRESIDENT:

Q Did you ever see Pawlicsek beat anybody in Flossenburg?

(Neumeier-Court)

A No, I couldn't say so. I didn't see anything.

Q You never saw him beat anybody on any occasion in Flossenburg?

A I couldn't claim any such thing. I didn't see anything.

Q Did you ever see Winkler beat anybody in Flossenburg?

A Yes, I received two boxes on my ears once.

Q From whom?

A From Winkler. That was up in camp.

Q I understand that Winkler boxed you on the ears on two different occasions. Is that the idea?

A Two different occasions? How do you mean that?

Q The Court is asking you a question as to whether or not Winkler ever mistreated you.

A No, he didn't mistreat me.

Q Did he ever box your ears?

A He only gave me two boxes on the ears, yes.

Q Did you ever see him mistreat any other prisoners?

PROSECUTION: We object to that translation back there when he said, "he hit him with a shovel".

INTERPRETER: No, not with a shovel, "with his hand".

PRESIDENT: Just a minute. Repeat the translation that you understood, Mr. Interpreter.

THE INTERPRETER: Which one?

PRESIDENT: The one that the Prosecutor is referring to.

PROSECUTION: When he said he beat him with a shovel.

WITNESS: Only with the hand.

PRESIDENT: Is that what you understood the translation to be?

THE INTERPRETER: That's right, sir.

DR. WACKER: "Then we were working with the shovels."

THE INTERPRETER: I didn't get a chance to translate that.

PROSECUTION: I beg the Court's pardon.

PRESIDENT: You want to get all that in there, anything he says. If there is any question about it, the Court will allow you then to further question the witness to be sure the translation is correct. Any further questions by members of the Court?

QUESTIONS BY LT. COLONEL SEIFLWIG:

Q How far away were you from this group of Staff Sergeants when they marched down there to the shooting range?

A I couldn't judge that. I didn't have a good view. They marched out there from Block Number 1. You could get a look into the arrest yard, and you could see the Staff Sergeants coming out from the Block House, marching down there.

Q When you say "marching down there", what do you mean--down to the shooting range?

A To the shooting range? Yes.

Q Was the shooting range outside the wire inclosure at that time?

A Yes.

Q What road did the Staff Sergeants take on their march from the arrest building to the shooting range? How did they get out to that shooting range?

A They went across the formation grounds from the Block House, and the back gate was open, andthey went through this gate where the other ones were marching down--the ones from the arrest yard.

QUESTIONS BY THE PRESIDENT:

Q Did you ever receive 25 blows on the wooden horse while you were in Floossenburg?

A No, I did not.

QUESTIONS BY LT. COLONEL SKIPLVIO:

Q Where was that Block House located at that time?

(Neumeier-Court)

A The Block House? I don't know who e it was. Toward the end it was....may I indicate this? This was Barracks 1 over here, and the Block House was over there, and there was the wire fence around. (Indicating.)

Q Neumeier, will you go to the map on the wall over there, Prosecution's Exhibit 5, and point out the Block House on the map, if you can do so?

A Is this Barracks Number 1? Yes. Barracks Number 1. No. If I would know where Barracks Number 1 is located.....

Q Can you locate Barracks 1 on that map?

A I am asking you whether or not that is it, because it is marked with the figure one.

Q Neumeier, I think you will find on that Exhibit that just to the right of your pointer there you will see a line that goes up down.

A Yes, is that what you mean?

A That's right. That is supposed to be the wire inclosure of the main fence.

A If that is the wire fence, then this is Barracks Number 1. No, I am not sure. Is that Barracks 1?

Q Continue around with your pointer and follow that straight line up and down and around to the right of all of those blocks. Can you tell me what that is?

(The witness did as directed.)

A Oh, now I get it. I know where it is now. This is Block 1.

PROSECUTION: May it please the Court, let the record show that the witness indicated a block marked "1" in red letters on

(Neumeier-Court)

Prosecution's Exhibit 5 as being Block Number 1.

WITNESS: And this is the entrance over here. (Indicating)

QUESTION BY LT. COLONEL SKIRLVIG:

Q Show me the road that you saw this group of men--group of Staff Sergeants--take to the arrest building when you first saw them. I will change that to the road they took from the arrest building to the shooting range.

A If that's Barracks Number 1 (indicating), and that's the formation ground, and this is the kitchen (indicating). I see, then this is the entrance over here; and that's where the Tech Sergeants marched through; and they went this way. I don't know whether they went out here or out there; and that's the way down to the crematory. That's the entrance; that was Block Number 1; and this over here was the Block House; and that's the way into here; and down here--that's the way to the hospital; and you could get a look from Block Number 1

up to approximately this point; and they must have moved down here. Most probably they were coming out from the arrest building. They were coming out of the arrest building barefoot; and then they came out of the arrest building, went this way, and then marched down that way. (Indicating)

PROSECUTION: May it please the Court, let the record show that the witness indicated a little block marked with the letter "C" in pencil on Prosecution's Exhibit 5 as being the Block House; that the blank space between two lines to the right of the building marked as a Block House was indicated as the entrance; that the witness further indicated the space to the right of the entrance as being the roll call place. He further indicated again the block marked in red with the number "1" as being Block Number 1. The witness further indicatedthe route as going across the roll call place to a point

(Neumeier-Court)

which is to the left of a block marked in red letters "24"; and then stated that the path was directly straight down between the blocks marked "20", the laundry, the canteen, and 13 and 21. Do you have any objection to that?

MR. McKAY: To a point directly opposite the canteen, where his pointer was that he could see.

PROSECUTION: I have no objection to that, but I do think he said something further to that last with respect to where it may be seen again. I think we can check that. Am I wrong on that?

INTERPRETER: No.

PROSECUTION: All right, sir, then I have no objections to that amendment as made. He further traced a path between the block marked "shops" in red letters and "Block Number 24" out in the direction of the line which is almost to the right hand margin of Prosecution's Exhibit 5. Do you have any objection to that?

MR. McKAY: No.

QUESTIONS BY LT. COLONEL SKIRLVIG:

Q Neumeier, what were you going to say just then?

A I said, "Yes, that's right--past the laundry."

INTERPRETER: When I was translating this from English to German, he made the remark, "That's right--past the laundry."

QUESTIONS BY LT. COLONEL SKIRLVIG:

Q Take your seat again Neumeier. Neumeier, who else did you see in that firing squad when it passed Block 1?

MR. O'CONNOR: May it please the Court, I respectfully object to the form of that question unless it is limited to the

(Neumeier-Court)

two men on behalf of whom this witness is called.

PRESIDENT: The objection is overruled, Mr. O'Connor. This Court is after facts. Will the reporter please repeat the question?

(Whereupon the question was read by the reporter.)

WITNESS: But I didn't see when the actual shooting took place--didn't see how they shot them to the ground. I only saw them marching down there.

QUESTIONS BY LT. COLONEL SAILVIG:

Q That's what I want to know, Messmer. Who else accompanied Winkler and Pavlicsek? Did you recognize anyone else?

A Second Lieutenant of the SS, Schirmer.

Q Who else did you recognize? Anyone else?

A Technical Sergeant of the SS, Schnan.

Q Anyone else?

A Otherwise, well, they we e walking fast and you couldn't see anything else.

QUESTIONS BY THE PRESIDENT:

Q Do you remember whether or not these shootings took place in 1941 or 1942 or any other year?

A No, I would have to tell you a lie.

Q Neumeier, are you positive that Pemlicenk never gave you an order on any occasion during any time that you were in Flossenburg to beat an inmate?

A No, my word of honor. No, certainly not.

QUESTIONS BY COLONEL JACKSON:

Q During the years 1942 and 1943, while you were in Flossenburg, did you ever see any prisoners beaten with a rubber hose or a gummy?

A That a prisoner was beaten with a rubber hose? No.

(Neumeier-Court)

Q Did you ever see them beaten with a stick?

A No.

Q Do you know of any prisoners that were beaten so badly they had to be taken to a hospital?

A No.

QUESTIONS BY LT. COLONEL SMITH:

Q What year were you sick in the hospital for eight days?

A That was in the fall.

Q Do you remember what year it was?

A No, I don't remember the year. I believe it was 1943 or 1942. anyway it was not prior to that year.

Q During that year were there any executions or shootings at all? Do you remember?

A No, I cannot remember. I would have to tell you a lie. I don't know.

QUESTIONS BY COLONEL JACKSON:

Q Did you know SS Captain Aumeier?

A Yes.

Q Did this execution you spoke of take place before or after he left Flossenburg?

A That was during the time Aumeier was there.

QUESTIONS BY LT. COLONEL BURCHAM:

Q Did you see him with those shooting details?

A I can't remember. Yes, he marched down there several times. No, that is, he didn't march down there, but he did go down there; and that usually was in the evening before sunset.

QUESTIONS BY THE PRESIDENT:

Q Do you remember when Captain Aumeier left Flossenburg?

A That was around 1942 or 1943--I can no longer say it exactly.

PRESIDENT: Any further questions by members of the Court? Apparently not. Redirect, Dr. Wacker?

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Neumeier, were boxes on the ear not considered mistreatments in Flossenburg?

A I didn't understand you.

Q Mr. Neumeier, didn't you just say that once you received two boxes on the ear?

A Yes.

Q And in subsequence to that you were asked whether you were ever mistreated, and your answer was 'no'.

A I didn't consider that a mistreatment--the two boxes on the ear which he gave me.

Q But did not other prisoners not take that as a mistreatment either?

A Several did, several did not.

PRESIDENT: Just how did you feel about those boxes on the ear when you received them?

DR. WACKER: You did not feel it was a friendly attitude on the part of Winkler, did you?

INTERPRETER: The answer to the last question was 'not good'.

PRESIDENT: Did you get the question?

INTERPRETER: Yes.

WITNESS: Well, I would rather get a box on the ear than to be beaten with a club.

QUESTIONS BY DR. WACKER:

Q At the time you received those boxes on the ear, did you

QUESTIONS BY DR. ENGELHORN:

Q In which year did this incident of the two boxes on the car occur?

A It was around 1938 or 1939, something like that.

PRESIDENT: Any further questions on the part of the Defense?

MR. HALL: This will be cross examination in connection with the Accused, Gulhardt.

QUESTIONS BY MR. HALL:

Q How often did you see this man, Aumeier?

A He was there in the camp every day.

Q How often did you see him?

A In the morning and in the evening when we returned.

(Aumeier-Redirect)

feel that was mistreatment?

A Well, I was angry.

Q Well, did you feel that you were being treated humanely when you got those bones on the ear?

A No, I didn't feel that way. I didn't think that it was humane.

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL JACKSON:

Q You stated that you would rather have the bones on the ear than to have been beaten with a stick. Was it the custom to beat with a stick at Flossenburg?

A Yes, if a report would have been made about me, I would have received 25 blows with a stick.

PRESIDENT: Any further questions by members of the Court? Apparently not. Redirect?

REDIRECT EXAMINATION

Q What were his duties there?

A He was in charge of the entire SS, and he was prison compound commander.

Q Did you see him daily then?

A Daily, yes, yes.

Q Upon what facts do you base your recollection that he could have left in 1942 or 1943?

A I am sure that he was there in 1938 and 1939 and 1940; and he was there also in 1941; but I can't tell you for sure as to 1942 and 1943.

MR. HALL: That is all, sir.

PRESIDENT: Further questions by members of the Court? Apparently not. Any further cross examination on the part of the Defense? Apparently not? Recross examination?

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Mr. Neumeier, how frequently did you see Pawlicsek and Winkler in this detail that you said you saw from Block 1?

A What kind of detail--this one marching down there?

Q Yes, that detail marching down there.

A This one marching down there--well, that consisted of about two or three men, and I saw them about three times.

Q So that you saw Winkler and Pawlicsek about three times in this detail, is that correct?

A Oh, you mean when they moved in. Yes, yes, two or three times.

PROSECUTION: May it please the Court, I didn't understand the Interpreter. May I get that answer from the reporter?

(Thereupon the answer was read by the reporter.)

QUESTIONS BY THE PROSECUTION:

Q Did you ever observe any beatings with sticks of the prisoners

in Flossenburg, other than when they Received the 25 blows over the wooden horse?

A No, I didn't see that.

Q So that the only beatings that you were afraid of were those you would receive over the wooden horse with a stick. Is that correct?

A How do you mean that? Yes.

Q Now, you lived in Block 1 during the entire time you were in Flossenburg?

A I didn't the first year. I was quartered in a different block.

Q But subsequent to that time you lived in Block 1, is that correct?

A Yes, because of the escapes.....that they would watch us first because of the escapes.

Q Do you know of what treatment the prisoners received in other blocks, such as Block 8 and Block 2?

A No, I don't know.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You have just testified in answer to a question on the part of the Prosecution that you saw Pavlicsek and Winkler moving in with some detail. Now just what detail are you referring to?

A What kind of detail?

Q What was this detail or commando you were talking about where you saw Winkler and Pavlicsek?

A Detail? I am referring to the detail where the Staff Sergeants were.....where the Staff Sergeants belonged to.

Q Yes, what were they doing?

A They were marching down to the shooting range.

Q And that was the time of these shootings, is that right?

A I cannot maintain that to a certainty. It could have been so.

Q Do you know definitely whether or not any of those men you have named participated in those shootings?

A Yes. I saw them when they were marching down there with a rifle in their hands; but I didn't see the actual shooting.

Q Did you hear any shots fired after that?

A Shots? Yes.

Q But you still can't tell the Court just when that was--what year--is that right?

A What year? No. May I ask something?

Q Yes.

A There is another one out there--a witness--and he is very familiar with the conditions; and he can testify to that.

Q Never mind. The Court isn't interested in something that some other witness co is testify to--that is, while you are on the stand. Do you remember definitely what year that took place? The Court is referring to these shootings.

A I can't tell you for sure when that started.

PRESIDENT: Any further questions by members of the Court?

WITNESS: Around 1941 or later than that, but not earlier.

QUESTIONS BY LT. COLONEL DUNCAN:

Q You said you saw these men coming out of the arrest building barefooted and going down towards the crematory. Isthat correct?

A Yes.

(Neumeier-Court)

Q Did you ever see them come back?

A No, they never came back.

Q Did they go in front of what you took to be a shooting detail, or did they follow them down?

A They were marching down there first, and then the block leaders followed.

Q Did you see the block leaders come back?

A They came back, yes.

Q In formation?

A I don't know. I can't tell you--two or three abreast, or maybe four abreast, but in formation.

Q What did they do when they came back?

A They went back, were marching out to the Block House, where they went in. Subsequent to that I don't know.

PRESIDENT: Any further questions by members of the Court?

QUESTIONS BY COLONEL JACKSON:

Q How many times did you stand by the window of Block 1 and see this shooting detail, this Staff Sergeants' detail, march across the formation square?

A Two or three times for certainty.

Q Were the same Staff Sergeants present each time?

A Yes, approximately.

Q Was Lieutenant Schirmer present all three times?

A He was. He was present several times--certainly two or three times.

Q Did he ever attend any of these marching details while Captain Aumeier was stationed in Floessenburg?

A I saw Second Lieutenant Suirmer going down there.

INTERPRETER: You want me to repeat the question?

COLONEL JACKSON: Yes, please.

WITNESS: You mean whether he was in the concentration camp of Flossenburg during the time Captain Aumeier was there? Yes, he was.

QUESTIONS BY COLONEL JACKSON:

Q Did he take charge of the Staff Sergeants' detail during the time that Captain Aumeier was there?

A Really, I can't remember.

PRESIDENT: Any further questions?

QUESTIONS BY COLONEL BURGAMS:

Q Do you remember what time of year these shootings took place?

A Around 1941 or 1942, or later than that. I know that for sure.

Q Well, was it spring, summer or winter?

A That was towards the evening in most cases. It was not during winter time. No, certainly not. It was not during winter time.

Q How do you know?

A Because there was no snow on the ground.

PRESIDENT: Further questions by members of the Court.

QUESTIONS BY THE LAW MEMBER:

Q Who was in that detail that you knew, Neumeier?

A What kind of detail?

Q Shooting detail.

A The ones I saw?

Q Yes, tell the name of everybody you know.

A Yes. That was Schwann, Winkler, Pawlicsek, Schirner, Fries, and I really don't know whether the others were present as well.

Q Did they go down to the shooting range for any other purpose than to shoot prisoners, do you know?

A Well, they were coming out of the arrest yard and were going down the way to the shooting range, down to the crematory, down that way; and the SS men were following them; and in most cases you would hear shots fired a few minutes after that.

PRESIDENT: Further questions by members of the Court? Apparently not. Does the Defense have anything further?

DR. SAGER: No further questions.

PROSECUTION: No further questions.

PRESIDENT: The Court understands that the Defense has finished with this witness?

DEFENSE: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the court room.)

PRESIDENT: The Court will adjourn until nine o'clock tomorrow morning.

(Whereupon the Court adjourned at 1700 hours.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at .....
in (Address of Court)
(Anschrift des Gerichtes)

on .....194.....
am

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

Copy of above served on accused .....194.....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

Case No. .....

*~~Summary~~

*~~Intermediate Military Court~~.

*General

Place DACHAU, GERMANY

Date 30 October 194 6
0900 - 1700 Hours

~~Members of Court~~

WITNESSES:

THEODOR RUMRICH
FRIEDRICH KARL NILL
KARL Haensel

Pages 5857 - 5919 Incl.

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

Imprisonment: Term .....
Beginning ..... 194.....

Fine: Amount .....
To be paid before ..... 194.....
or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

Versus

THE UNITED STATES — FRIEDRICH RUPPERT, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY — BEGINNING 12 June 1946

30 October 1946 — 0900 - 1700 hours — Pages 5857 - 5919 incl.

TESTIMONY

WITNESSES	Direct	Cross	Redirect	Recross	Court
RUPRICH, THEODOR	5857	5865	5866 5874 5878	5871 5875 5879 5885	5867 5872 5876 5893
NILL, FRIEDRICH KARL	5894	5897	5901 5904 5911 5912	5902 5901 5906 5908 5912	5902 5911
Haensel, Karl	5914	5917			

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-37	Statement of Paul Toermer	5860	5861
C-4	Hospital statement re Toermer	5872a	5872a
P-78	Questionnaire of Karl Nill	5905	

Camp Dachau, Germany
30 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Mr. McKay, who is absent on business of the accused; all the accused are present, with the exception of Weye, Eisbusch, Oswald, Olschewski, Jakubith, Lipinski, Matzke, and Roupsch, who are sick and whose interests are being taken care of by counsel. If there are any spectators present in the courtroom who expect to be called as witnesses, they will please leave the courtroom.

PRESIDENT: The court has appointed John G. McDonald as reporter. He will be sworn.

(Whereupon John G. McDonald, U. S. civilian, was sworn as court reporter.)

DEFENSE: The defense calls as the next witness Dr. Theodor Rumrich. He is going to testify on behalf of the accused Pawlicsek.

DR. THEODOR RUMRICH, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. HACKER:

Q Doctor, please give us your full name.

A Dr. Theodor Gustav Rumrich.

Q How old are you?

A I was born on the 1st of February, 1906; that is, I am forty years old.

Q Are you married?

A Yes.

Q Where is your residence?

A In Kreibitz.

Q Where are you presently living?

A In Cage No. 1.

Q Are you being held prisoner by the Americans?

A I am a civilian internee.

PRESIDENT: The court desires to advise you that, should you be asked any question which might tend to incriminate you, you have the right to ask the permission of the court to refrain from answering that question. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Doctor.

QUESTIONS BY DR. WECKER:

Q What is your profession?

A I am a doctor.

Q Did you pass your medical examinations?

A Yes.

Q Where?

A In Prague.

Q At the University of Prague?

A Yes, at the University of Prague.

Q Do you practice your medical profession?

A Yes.

Q Were you used as a physician over here at Dachau?

A Yes.

Q Where?

A As regimental physician in the war crimes cage and as doctor in the bunker.

Q Do you know Paul Toermer?

A Yes.

Q Did you treat Paul Toermer as a physician?

A Yes.

Q Please ask the court's permission to make a statement as to the medical treatment of Toermer.

A I ask the court's permission to be allowed to make a statement as to the medical treatment of Paul Toermer, due to the fact that according to the law I am not allowed to make any statements in this matter except with the permission of the court.

PROSECUTION: May it please the court, unless it is a matter that is of the utmost importance to this court in the trial of this case the privilege that exists between patient and physician should be observed. There has been no consent given on the part of the patient at all.

PRESIDENT: The court will grant you permission to reply, Colonel Wilson.

DEFENSE: In the War Crimes Manual, page 109, section 270, subsection (f), there is no notation of the physician and patient relationship being privileged. Furthermore, Underhill's Criminal Evidence --

PRESIDENT: Just a minute. Give that citation again.

DEFENSE: Page 109, section 270, subsection (f). That, sir, is the change dated August 15, 1946. Unless the court has that change the text might not be the same.

PRESIDENT: The court will be closed.

(Whereupon at 0925 hours the court was closed until 0935 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the

defense are present, with the exception of Mr. McKay, who is absent on business of the accused; all the accused are present, with the exception of Meye, Eisbusch, Oswald, Olschewski, Jakubith, Lipinski, Matzke, and Reupsch, who are sick and whose interests are being taken care of by counsel. If there are any spectators present in the courtroom who expect to be called as witnesses, they will please leave the courtroom.

PRESIDENT: The court grants the request of the witness as indicated by Dr. Wacker. At the same time, in order to protect this particular witness from a professional standpoint, the court directs that this particular witness testify relative to the case of Paul Toermer. Do you fully understand, Doctor?

DR. WACKER: Yes.

PRESIDENT: Proceed, Dr. Wacker.

DR. THEODOR RUMRICH, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY DR. WACKER:

Q When did you treat Paul Toermer?

A In April 1946.

Q Where was this medical treatment given?

A In the hospital of the special camp.

DR. WACKER: I hand this paper to the reporter and ask that it be marked Defense Exhibit No. 37 for Identification.

(The paper referred to above was marked Defense Exhibit No. 37 for Identification.)

Q Dr. Rumrich, I now hand you a document which has been marked Defense Exhibit No. 37 for Identification and ask you what that is.

A That is a statement which at that time had been signed by the patient Paul Toermer when he was in the hospital of the special camp. He took a cure, with the final result to withdraw from opiates

and narcotics.

Q Please read this statement.

PRESIDENT: Just a minute, Doctor. Do you desire to present this Defense Exhibit 37 in evidence?

DR. MACHER: Yes.

PRESIDENT: The court does not desire that this witness endeavor to read it until it has been presented in evidence and accepted by the court.

DR. MACHER: I herewith offer Defense Exhibit No. 37 for Identification into evidence.

PRESIDENT: No objection.

(Discussion off the record.)

PRESIDENT: Subject to objection by any member of the court the court will receive Defense Exhibit No. 37 in evidence and give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit 37 for Identification was received in evidence as Defense Exhibit No. 37, is attached hereto, and is made a part of the record.)

QUESTIONS BY DR. MACHER:

Q Dr. Rumrich, I now ask you to read this statement to the court.

A (Thereupon the witness read Defense Exhibit No. 37, statement of Paul Toermer, as follows:)

"Statement

"I, Paul Toermer, born on the 1st of December, 1912, herewith state that I turned all the opiates and narcotics which were in my possession over to the doctor of the hospital of the war crimes cage and that I am willing to take a cure to withdraw from opiates which has been exactly established in all details.

"Signed: Paul Toermer, Dachau War Crimes Cage, 9th of April, 1946."

PRESIDENT: You indicated that was being done voluntarily, didn't you, Interpreter? The copy that I have here states "in that I submit voluntarily".

INTERPRETER: Yes, that is right.

PRESIDENT: Proceed, Doctor.

QUESTIONS BY DR. WACKER:

Q What were the reasons for this statement which you just read?

A On the day before the signature was affixed to this particular document the doctor of the hospital of the war crimes cage reported to me that there was a patient in his hospital who repeatedly took morphine injections. I asked him to bring this patient to me. I examined Paul Toermer and had a prolonged discussion with him. I found out that he had taken injections consisting of opiate tincture of one percent several times a day, and he asked me whether I would not supervise a cure in this matter. I made a report about this to the German camp physician and chief physician, and after discussion we decided that Paul Toermer would submit to a cure.

Q Was this cure then actually carried out?

A Yes. It was performed under the constant supervision of a psychiatrist.

Q Why do you need a psychiatrist for this?

A I considered it necessary due to the fact that the place where the cure was performed did not seem appropriate to me, and I therefore preferred to have a psychiatrist supervising it.

Q Did Toermer tell you anything about how long he had taken morphine injections or opiates?

A He told me that he had taken these injections during the last week.

Q Do you know that Paul Toermer testified under oath here in court that he never took such injections?

PROSECUTIONS: Just a minute. I object to that, may it please the court, as being immaterial and irrelevant to the issues of this case. It is immaterial and irrelevant to any treatment that may have been performed on Paul Toermer.

PRESIDENT: Just a minute, Doctor.. Before you start to

(Rumrich - Direct)

answer an objection you must get the permission of the court. All right, the court will give you an opportunity to answer. Make it short.

DR. WACKER: I would like to bring out by this witness whether or not you can rely on the statement and the testimony of Paul Toermer or whether he deliberately made false statements.

PROSECUTION: May it please the court, that is nothing more than an argument between this witness and Paul Toermer. It has nothing whatsoever to do with the testimony of Paul Toermer before this court and the treatment that Paul Toermer received in April 1946. The court knows what Paul Toermer testified to here, and I submit that what Paul Toermer told this doctor has absolutely no bearing on what the witness Paul Toermer testified here.

PRESIDENT: The objection of the prosecutor is overruled. The court will be closed.

(Whereupon at 0950 hours the court was closed.)

Ts 561 10-30-46
pls/1
Floss.

Camp Dachau, Germany
30 October 1946

MORNING SESSION

(Whereupon the court reconvened at 1000 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Mr. McKay and Dr. Engelhorn, who are absent on business of the defense; all the accused are present with the exception of Gewalt, Olschewski, Janubith, Lipinski and Matzke, who are ill and whose interests are being taken care of by counsel.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The objection of the prosecutor is sustained.

DR. THEODOR EMMRICH, a witness for the defense, resumed the stand and further testified, through an interpreter, as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY DR. WACKER:

Q Doctor, did Paul Toermer tell you anything about his profession?

A He told me he had been a medic.

Q Did he tell you he had studied?

A No.

Q Please give the court a very brief description of the studies which a medical student must perform before he can take the first State medical examination.

A I studied in Prague. In Prague it is necessary to take three examinations.

(Emmrich-direct)

Q Doctor, do you know anything about the examinations necessary in Germany?

A No.

DR. WACKER: No more questions.

PRESIDENT: Cross examination.

PROSECUTION: May I have just one moment, sir, before we begin this?

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: The court will come to order.

PROSECUTION: Let the record show that Kisbusch has left the courtroom.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Doctor, do you know what Paul Toermer's physical condition was on the 28th and 29th of July of this year?

A No.

Q Do you know what his condition was on the 26th and 28th day of August 1946?

A No.

Q Prior to the 28th day of July 1946, when was the last time that you treated Paul Toermer?

A In April 1946.

Q In other words, he hadn't received any treatment from you then, from April 1946 up until July 28, 1946, is that right?

A No. That's right.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q In order to get you to complete your medical studies in Prague, do you have to take a physical?

A I know what the defense counsel means. He means the first examination, that's called the first rigorosum.

PROSECUTION: May it please the court, I object to this line of questioning with respect to the examination that must be taken in Prague. That has no bearing on the examinations that must be taken in Germany and if it constitutes an attempt at impeachment, the proper predicate has not been laid for such a procedure.

DR. WACKER: I withdrew my question.

DER VOR: May it please the court, let the record show that Eisbusch has returned to the dock.

PRESIDENT: Proceed, Doctor.

Q How many semesters does a German student in a German university need before he can take his examination.

PROSECUTION: I object to that because it is irrelevant and immaterial and if it precedes an impeachment, the proper background for impeachment has not been laid.

DR. WACKER: I would like to say that Paul Toermer here testified he made his physical examination after studying four semesters, therefore the predicate for this is already in the record.

PRESIDENT: Doctor, the court, before acting upon this objection of the prosecution, would like some definite information as to whether or not this witness ever practised medicine in Germany. The court is not referring to any operations on the part of the witness or the practise of medicine in the Lager.

Q Doctor, where do you practise your profession?

A In the camp here

Q I mean in civilian life.

A In the war I performed my practise as a military doctor.

Ts 561 10-30-46
pls/4

Q And before that?

A As a civilian practitioner.

Q In what country?

A In Dreibits.

Q Where is that located?

A In the former Sudetenland.

Q Do you have the necessary knowledge about the studies of a physician in Germany?

A No.

DR. WACKER: Then I'm finished with my questions.

PRESIDENT: The objection of the prosecutor is sustained. Any further redirect, Dr. Wacker?

DR. WACKER: No, thanks.

PRESIDENT: Any further questions on the part of the defense?

DEFENSE: No, sir.

PRESIDENT: Recess:

PROSECUTION: Nothing further, sir.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Doctor, you have testified that Toermer made a statement to you to the effect he was a medic. What did he mean by that?

A The assistant of a physician.

Q We further mentioned to you, according to your testimony, that he had been a student of medicine. Did Toermer amplify that particular statement?

(Rumrich-court)

A According to my testimony he didn't say that he had been a student of medicine, he merely said he was a medic.

Q Then you don't know anything about the background of Toermer from a straight collegiate course or a medical course?

A No.

Q Doctor, Defense Exhibit No. 37 indicates that Paul Toermer turned over certain opiates and narcotics in his possession to the doctor of the hospital. Were those narcotics and opiates turned over to you directly or to some other doctor in the hospital?

A They were given to the doctor of the hospital in the camp where the people have to stay in bed.

Q Are you referring to the hospital in Dachau or where?

A No, that's a hospital where people have to stay in bed in the special camp.

Q In the special camp in Dachau?

A Yes, in Dachau.

Q Do you know the name of the doctor to whom these narcotics and opiates were turned over?

A Yes, as far as I remember that was Dr. Knahl.

Q Is he in Dachau at the present time?

A No, he's been released.

Q Have you any definite knowledge, Doctor, of just what these opiates and narcotics consisted?

A Tincture of simplex opium.

Q How much?

A About 50 to 60 cc. and a hypodermic needle.

Q Were there any other opiates and narcotics turned over by Toermer outside of what you mentioned?

(Rumrich-court)

A Yes, that's all he turned over.

Q Do you have any knowledge of how those various narcotics and opiates came into the possession of Toermer?

A No.

Q You can't tell the court then whether or not they were actually prescribed by some doctor?

A No.

Q The amount that you have mentioned, some 50 or 60 cc., how many injections would that afford?

A 60 injections.

Q Would it be a usual practice for a doctor under normal conditions to prescribe that amount for one individual to be kept in that individual's possession?

A No.

Q What would be the normal amount prescribed?

A A doctor never prescribes tincture of opium for injections.

Q During the practice of your profession, doctor, you have had considerable experience with opiates and narcotics, haven't you?

A Yes.

Q I wish you would tell the court the effect upon the individual of the use of a narcotic, as you mentioned.

A The main effect of the use of opium is that after a certain period all pain ceases.

MR. WERNER: Doctor, you speak about morphine?

WITNESS: Morphine, not opium.

Q Now, this drug that you have mentioned which has been turned over by Toermer to one of the doctors in the camp, was that in the nature of an opiate or a narcotic?

(Zumrich-court)

A Tincture of opium.

Q From your experience in the practice of medicine, what effect would the use of that tincture of opium, that opiate, have upon the mental and physical condition of the individual?

A It has a similar reaction to morphine. It has an effect of killing pain and it also has a congested effect upon the intestine.

Q What about the continual use of an opiate of that nature, what effect would that have upon the mental and physical condition of an individual?

A I don't feel myself competent to answer that question. I believe a specialist would have to answer that particular question.

Q Doctor, have you had enough experience to tell the court whether or not there would be a certain amount of degeneration as far as the mental and physical capacity of the individual is concerned?

A No.

Q Doctor, do you have any definite knowledge whether or not Toerner continued with the use of drugs after April 26, 1946, the time you last had the opportunity to observe him?

A I don't know that.

Q Did he actually take the cure?

A Yes.

Q How long did that last?

A One week.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JEFFERY:

Q How long had Paul Toerner been addicted to the use of narcotics?

(Rumrich-court)

A According to his statement, several weeks.

Q Had he been administering the narcotics himself?

A Yes.

Q How many injections a day?

A I can't remember exactly, I believe six to eight injections per day.

Q If he had been using narcotics in 1943 and 1944 continually, can you tell the court what effect that would have on his mental condition?

A No.

Q You say he took treatment for a week in April 1946?

A Yes.

Q Was he pronounced cured when he left the hospital?

A Whenever a person who is addicted to morphine takes a cure like that it is always hard to say whether the cure was completely effected.

COL. JACKSON: That's all I have, just one more question.

Q Is it customary for a doctor to have a patient administer a narcotic himself, that is, the patient himself administer it?

A No.

COL. JACKSON: That's all I have.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

DEFENSE: No.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q This drug that Toermer is alleged to have turned over in April, tincture of opium, is used in the treatment of diarrhea and dysentery, is it not?

A Yes.

Q In other words, tincture of opium is not used with a needle for the purpose of injecting it into the skin, but used to be taken internally for the treatment of diarrhea and dysentery, is it not?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Dr. Wacker?

DR. WACKER: My attention has just been called to a mistake in interpretation and I would like permission to ask another question. How long did this cure last?

WITNESS RUMRICH: One week.

EXAMINATION BY THE COURT (continued)

QUESTIONS BY COLONEL JACKSON:

Q At the time Paul Toermer reported to you for treatment, did you make an examination of his body?

A Yes.

Q Did the skin show any punctures from this narcotic?

A Yes. There were a number of spots where injections had been made on his forearm.

QUESTIONS BY PRESIDENT:

Q Doctor, did I understand you to say that Toermer also turned over needles?

A One hypodermic needle, complete with tip.

QUESTIONS BY MAJOR LAWRAN:

Q I notice here in Paul Toermer's testimony, the 27th of August 1946, the question was asked him "Has any doctor treated you for drug addiction." His answer was, "No." In view of that are you sure that he was treated for drug addiction?

(Rumrich-court)

A He was treated by taking this cure in the special camp.

Q Do you know the date of that treatment, Doctor?

A It was in April. I don't know the exact day.

Q I note this statement which he signed here is dated the 5th of April 1946. Was the treatment taken before or after that, do you know?

A After this date.

Q Then in April, according to your recollection?

A Yes, in April. It was immediately after this signature.

Q Wouldn't the hospital record, here in the Lager, show the date of that treatment?

A Yes.

Q That record, I assume, is available over there. It can be produced, can it not?

A Yes. I have a copy of it here with me.

PRESIDENT: The court would like to see that copy, Doctor.

Q Is that a copy of the record, of the hospital record, Doctor?

A That's the original copy of the record of the cure we made at that time.

Q Is that in English or German?

A In German.

LAW MEMBER: I ask the reporter to mark that as Court Exhibit No. 4 for identification.

(Whereupon the reporter marked the document referred to as Court Exhibit No. 4 for identification.)

PRESIDENT: The court will check that from the standpoint of identification.

(Whereupon the document, Court Exhibit No. 4 for identification was shown to the court.)

PRESIDENT: The court will receive Court Exhibit No. 4 in evidence and give it such weight as the court sees fit.

(Whereupon the reporter marked in evidence Court Exhibit No. 4)

DEF MEK: Let the record show that Eisbusch has left the on account of illness.

LAW MEMBER: Ask the witness to read that record.

INTERPRETER: May it please the court, would you like me to take that complete, after he is finished?

PRESIDENT: Let him read the whole thing and then you can go through it.

(Whereupon the witness read the document marked Court Exhibit No. 4 after which the interpreter translated the document as follows:)

"Fifth Regiment
Office of the Doctor of the Fifth Regiment
Dachau

9 April 1946

Concerning Paul Toermer, born December 5, 1912, in regard to his taking the cure.

A discussion took place on the 6th of April 1946 with the German chief doctor of the Camp, Dr. Feirlings, and the German camp physician, Schneider. This letter is directed to the German camp doctor, Dachau.

The doctor of the Fifth Regiment is undertaking a cure with Paul Toermer after discussing the matter with both of the doctors of the staff, Dr. Feirlings and Dr. Schneider. Paul Toermer is an inmate of the special camp. We are attempting to carry out this cure for opiates. The cure begins at the present day and will be carried out according to the following system:

On the 9th of April at noon,	1 cc. of mo. and 0.02 mg
In the evening	1 cc.
On the 10th of April	½ cc.
In the evening	1 cc.
and twice daily cardiaca, which is a medicine for the heart.	
On the 11th of April	½ cc.
In the evening	½ cc.
and twice a day cardiaca	
On the 12th of April	¼ cc.
In the evening	½ cc.
and twice a day cardiaca	
On the 13th of April	¼ cc.
In the Evening	¼ cc.
and twice a day cardiaca	
On the 14th of April, in the evening	¼ cc.
twice a day cardiaca	
On the 15th of April	luminal 0.3, twice a day cardiaca

Toermer has explained that he has turned over all the opiates and

(Kumrich-Court)

narcotics in his possession, together with the injection needle. I can only carry out this cure if Toerner is examined and observed at least once a day by a psychiatrist, therefore, I beg that you approve this matter.

/s/ Dr. Rumrich
Chief Physician, Staff, and
Physician of the Regiment."

QUESTIONS BY LAW MEMBER:

Q Is that your signature attached?

A Yes.

Q Was that cure actually carried out, doctor?

A Yes, the cure was carried out.

QUESTIONS BY COL. JACKSON:

Q On the 2 th of August Toerner was asked this question, "How many injections would you say you had received in the past nine months", and the answer was, "Eight or nine times." Would you consider that a correct statement, the truth?

A I don't believe so.

PRESIDENT: Any further questions by the members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DR. WECHER:

Q Please explain the difference, doctor, between an opiate and morphine.

A The whole works is called opiates in the nomenclature of the pharmacist.

Q When the word "opiate" is used in this document, according to zone of usage, is morphine understood by that?

A No. You understand various narcotics under the name, opiate.

Q The thing that Paul Toerner turned over, was that morphine or some other preparation?

A That was tincture of simplex opium.

Q Does it have any different effect from morphine?

A It has a somewhat different effect than morphine but it has the same power of killing pain as morphine has.

PRESIDENT: Any further redirect?

DEFENSE: No.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Doctor, did you know whether or not Paul Toerner suffered with gallstones?

A I didn't know anything about that, no.

Q Did you make any inquiry to determine anything concerning his past medical histor ?

A At that time, when we first took up this case?

Q Yes, at that time.

A Yes.

Q And did you make any inquiries as to any source of pain that he may have been suffering from at that time?

A He didn't tell me anything about any pain or anything like that at that time.

Q Is morphine ever used in the treatment of gallstones?

A Yes, they use it.

Q What about atropine.

A Yes, atropine.

Q In other words, when a man is suffering from gallstone colic, I ask you to state, based on your experience as a practising physican, is it proper to treat the patient with morphine, atropine or some other narcotic?

A Yes, that's the correct treatment.

(Rumrich-recross)

Q Is delontine also used in the treatment of gallstone colic?

A You mean dolontine. Yes, but that's no narcotic, that's no form of opiate but it's a means of killing pain.

Q Do you maintain records over in the hospital there of the treatment that is given to patients who come to the hospital?

A You mean the people who are turned into the hospital?

Q Yes. Do you maintain permanent records on those people?

A Not in the hospital there.

Q Where are those records kept, Doctor, of treatment that is given to the various prisoners who resort there?

A In the hospital.

Q If Paul Toerner had been suffering with gallstone colic and had been treated for gallstone colic, would a record have been made of that fact?

A Only when he was confined to the confinement hospital itself.

Q In other words, unless he was retained in the hospital itself as a patient no record would have been made of it, is that correct?

A Yes, that's right.

Q In other words, if Paul Toerner was suffering with an attack of gallstone colic and went to the hospital complaining of gallstone colic, he would be given some treatment and unless he was retained in the hospital, no record of that treatment would be made, is that correct?

A That's right.

PROSECUTION: No further questions.

EXAMINATION BY THE COURT (continued)

QUESTIONS BY PRESIDENT:

Q Doctor, you have just mentioned that morphine and atropine might be prescribed by a physician for the treatment of gallstones.

A In order to stem the force and pain of the attack which begins a gallstone colic. The attack is very violent.

(Adjourned Court)

Q Would that treatment be in the form of injections?

A Yes.

Q Would it be the usual procedure for that treatment to be under the direct supervision of a physician?

A Yes.

Q In other words, the court understands then that these injections would be made by a physician?

A Yes.

Q And not by the individual patient?

A No.

Q Doctor, in talking with Foermer, did you learn the source of supply of his opiates and narcotics?

A No.

PRESIDENT: Any further questions by members of the court?

QUESTION BY GEN. JACKSON:

Q On the 27th of August, Mr. Foermer was asked the following question, "Have you ever subjected yourself to the use of narcotics", and his answer was, "Only when I got them from a physician, prescribed because of my gallstones." From your examination of him in April 1946, would you say that answer was true or not true?

PROSECUTION: Just a minute. I object to that question, may it please the court, on the grounds it calls for a conclusion of this witness that invades the province of the court in the first place, and in the second place, there are so many ramifications that would go into making up a proper answer to that, that this witness is not in possession of, as has been shown by his examination. In short, no proper predicate has been laid that would qualify him to answer such a question.

PRESIDENT: The objection of the prosecution is overruled. The court is after facts. Repeat the question.

(Thereupon the reporter read the last question.)

A You mean that question was asked him in August?

Q It was asked on August 27, 1945, this year.

A Since April 1 45 I didn't treat Paul Toermer anymore.

Q During your interview with him, did he tell you whether or not he had administered or injected himself with a narcotic?

A Yes.

Q Did he tell you whether or not it had been prescribed by a doctor?

A No. He said that he had injected them himself. That is what he told me.

PRESIDENT: Any further questions?

QUESTIONS BY LAW MEMBER:

Q At the time he asked you to give him the treatments for taking dope, did he ask you for any treatment for gallstone?

A No.

Q When was the first that you knew that Paul Toermer had gallstones?

A I can't remember exactly when I found out about it. It was probably about two months ago.

Q When you give morphine or some opiate for a gallstone, do you follow that up with some treatment for the purpose of removing the gallstone?

A That all depends upon the particular case.

Q You say that the first you knew about the gallstone was about two months ago. What was your source of information?

A I found that out by talking to a physician.

Q You mean a physician here in the camp?

A Yes.

Q And Paul Toermer asked him for treatment for removal of a gallstone?

A No.

(Murrich-Court)

A No.

Q Do you know how he found out about it?

A You mean in regard to the gallstones?

Q Yes.

A I heard that later on, after he had made this cure, Paul Toermer was treated for gallstones in the hospital here, in the Prisoner of War Hospital.

Q You mean the treatment was subsequent to the cure or before the cure.

A After the cure.

Q He made no complaint about the gallstone at the time of the cure?

A No.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION, (continued)

QUESTIONS BY MR. HALL:

Q What quantity of opiate would you administer to ease the pain of a gallstone?

A 0.02 grams.

Q How many grams in a cubic centimeter?

A Morphine is always in small ampules, that is 1 cc. contains 0.02 or 0.01 morphine.

PRESIDENT: Further redirect?

DEFENSE: No.

PRESIDENT: Recross?

RECROSS EXAMINATION (continued)

QUESTIONS BY PROSECUTION:

Q Doctor, while it is not the common practice to have the patient administer a narcotic to himself, there may be circumstances where the

(Kumrich-recross)

patient, if he is a medic, may a minister the drug to himself, is that not so?

A That was never common among us.

Q I say it isn't common, but it's not impossible that such a situation should arise where there is a shortage of personnel, is that not so?

A A doctor must be particularly careful in the use of morphine and actually should never let it get out of his hand.

Q That's the general case, doctor, but I'm talking about now, where circumstances may alter that general rule.

A It happens sometimes that a nurse or a medic can administer morphine to a patient under the supervision of a doctor.

Q And that patient might just as well be the nurse or the medic himself, mn it not?

A That could also happen.

Q For all you know, Paul Toermer may have been suffering from gallstones prior to April 1945, is that not so, doctor?

A I only know about his statement and in his statement he didn't say anything about that.

Q You never asked him, did you, doctor?

A Yes, I asked him exactly what his complaints were as I always do.

Q Didn't you state a moment ago you did not inquire as to the source of any pain that would cause him to desire the use of an opiate?

A In April the only thing he stated to me was that he made use of opiate injections.

Q Doctor, do you recall having been asked the question here this morning as to whether or not you made any inquiry of Paul Toermer to determine the source of his pain that would make him desire the use of narcotics?

(Rudrich-recross)

A I can only remember the question in regard to the source of his supply of these opiates.

Q Well, I'll ask you again. Doctor, did you make any inquiry of Paul Toerner when you interviewed him in April 1945, to determine the source of any pain he may have had?

A He was investigated, he was examined a number of times.

Q At that time no mention was ever made of his suffering with gallstones, is that correct?

A He didn't mention it to me.

Q Did you examine him to determine whether or not he was likely or probably suffering from gallstones?

A I didn't search him especially for gallstones, no.

Q What type of examination did you perform in April 1946?

A A normal physical examination, including questions.

Q Did you take any x-rays of his kidneys?

A No.

Q Did you take any x-rays of his chest?

A No.

Q As a matter of fact the only thing you did do was ask him some questions, is that true?

A No, I also examined him.

Q To what extent did you examine him. Describe the examination to the court.

A First of all I asked the patient questions.

Q Did you go beyond the question stage?

A Then I examined him.

Q What did you do?

A I had him strip down to the waist and then I had him strip down completely.

(Ruwich-recross)

Q What else did you do?

A The main thing I was looking for were spots where injections had been made.

Q Is that all?

A That's all.

Q So that at no time there did you make any examination to determine whether or not there was any physical abnormality that would produce the basis for the use of morphine?

A I asked him specific questions, exact questions, and then I gave him a physical examination. I checked over his body to see whether he could take the cure without having any complaint.

Q Doctor, in giving a man a cure for the use of opiates, isn't it necessary for the success of the cure, to remove what is either the real or the apparent reason for the taking of these opiates by the patient?

A I don't quite understand your question, Dr. Wacker. Do you mean where the opiates came from?

(Whereupon the reporter read the last question.

A I myself didn't carry out this cure.

Q I didn't ask you that, Doctor. Just answer my question, please.

A At that time he didn't state to me any reason, any cause why he used these narcotics.

Q Please answer my question.

(Whereupon the reporter read the question as follows:

"Doctor, in giving a man a cure for the use of opiates, isn't it necessary for the success of the cure, to remove what is either the real or the apparent reason for the taking of these opiates by the patient?"

(Rumrich-Recross)

A As a doctor, when someone reveals to me that he is using morphine and wants to take this course, I feel myself obligated, as a doctor, to see that this cure is carried out.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

PROSECUTION: May it please the court, I would like to have this witness instructed not to consult with anyone concerning his testimony already given or his testimony in the future.

PRESIDENT: For the benefit of the witness, that is the usual procedure and the court has so ordered that in past cases. I think that is thoroughly understood.

PROSECUTION: Yes, but I don't want him to go back and start discussing his testimony with people in the hospital.

PRESIDENT: The witness is so instructed. He will not discuss any of the matters covered in the testimony this morning until he resumes the stand this afternoon. You fully understand?

WITNESS: Yes.

(Thereupon the court recessed at 1200 hours.)

(Hunrich-recross)

TA 562-10/30-DMO-1
FLOSSENBURG

CAMP DACHAU, GERMANY

30 OCTOBER 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court, all of the personnel of the prosecution are present, all of the personnel of the defense are present with the exception of Mr. McKay and Dr. Wacker who are absent on business for the accused, all of the accused are present with the exception of Osmalt, Matzke, Olchewski, Lipinski, and Jakubith who are ill and whose interests are being taken care of by counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. Court will take a recess due to the fact that the defense witness previously on the stand this morning is not available at the present time. Please notify the court when the witness is available.

DEFENSE COUNSEL: Yes, sir.

(Whereupon the court recessed at 1345 hours.)

(Whereupon the court reconvened at 1410 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court, the prosecution and the defense are present, all of the accused are present with the exception of Oswalt, Hatzke, Olchewski, and Jakubith who are sick and whose interests are being taken care of by counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

MR. McKAY: I would like to have permission to take the accused Retzlaff in conference.

PRESIDENT: The request is granted. Proceed, Mr. Denson.

DR. THEODOR BURRICH, called as a witness by the defense, being reminded that he was still under oath, resumed the stand and testified further through an interpreter as follows:

RECROSS-EXAMINATION (Continued)

QUESTIONS BY PROSECUTION (Continuing):

Now Doctor, in giving a man a cure for the use of opiates is it not necessary for the success of the cure to remove what is either the real or the apparent reason for the taking of these opiates by the patient?

A A person who uses morphine is one who has this craving and there doesn't have to be any direct reason.

Q That's the reason why I asked you, doctor, if it isn't necessary to remove either the real or the apparent reason if there is an apparent or a real reason there then that reason would have been removed, so that it is necessary then, is it not, doctor, for the success of a cure to remove either the real or the apparent reason for the taking of opiates by the patient?

A In this case I didn't see any reason at all that had to be removed.

Q I didn't ask you that, doctor. Please answer my question.

A I don't believe that it is necessary to remove this reason before you make a cure with someone who uses morphine.

Q And that is the practice that you have followed in the past while you were practicing medicine as a physician, is that true?

A The only cure I ever made in my life was this single one and I didn't do that alone. I did it in conjunction with the psychiatrist.

Q Is it not a fact, doctor, that if there had been injections of tincture of opium or opiates taken by Paul Toermer prior to the time that you looked at him the tissues surrounding the location of these injections would have been highly inflamed and swollen?

DEFENSE COUNSEL: The question is argumentative. The witness has already testified that there were marks of the needle in the patient's forearm.

PRESIDENT: Objection overruled.

A I noticed inflamed reactions at these spots where Paul Toermer had made injections.

Q To what extent were they inflamed?

A You could call it a light, a mild inflammation.

Q And was it swollen?

A Yes.

Q To what extent was it swollen?

A Mild — light.

Q And that would indicate that he had received these injections approximately how long before the time you made this examination?

A Several hours before.

Q At the time that you examined him was that the time of the greatest inflammation and the greatest swelling that he would have had had he taken these injections of tincture of opiate?

A Several of these spots had already reached the highest point of inflammation and swelling and several others had already started to go down again.

Q And those that had started to go down again showed evidence of having been inflicted within a few hours of the time you examined him, is that not correct, prior to the time that you examined him?

A Yes.

Q Now doctor, is it possible for a person to take six or seven shots of this tincture of opiate in that period

of time and survive?

A Yes, if he's a morphinist, a man who takes morphine.

Q And over what period of time would he have to be a morphinist in order to be able to react in the manner that you have described?

A That is a question which only a specialist doctor could answer.

Q And isn't it also a question only a specialist doctor can answer, that he would have survived if he had been a morphine addict?

A Yes.

Q And you really don't know, do you, doctor?

MR. HAIL: If the court please, counsel has gotten the answer out of the witness that he wanted and I don't see that it's proper for him to start impeaching him at this time.

PRESIDENT: Objection overruled.

PROSECUTION: Please read the question.

(Whereupon the reporter read the question.)

Q You really don't know now, doctor, whether or not PaulToermer was a morphine addict or not, is that not so?

A I know whether he was one. I know that.

Q All right, what were the physical signs that you observed that denoted that PaulToermer had been taking narcotics over a long period of time?

A I could tell it by looking at the spots where the injections were made, the spots which I saw.

(Zumrich - Recross)

Q Do you consider a period of several hours a long period of time, doctor?

A These injection spots could have been made one or two days before according to the local appearance of them.

Q Well then, doctor, I'll ask you this. Do you first base your conclusion that he was a morphine addict on the spots that you observed on his body?

A Yes, and the fact that he brought me this hypodermic needle and the morphine and gave it to me.

Q Anything else beside those facts that you have already related to the court?

A And also according to the statements which Paul Toermer made to me when I was talking with him and when I was investigating him.

Q All right, what were the statements that he made to you that led you to the conclusion that he was a morphine addict?

A He said that one day he would inject himself with six to eight injections of tincture of opium, that is six to eight cubic centimeters a day.

Q And did he tell you over what period of time he had been doing that?

A Yes, several weeks.

Q And did he tell you anything else?

A No, not that I know of.

Q So that you base your conclusion that he was a morphine addict on the statement that he made that he had used

this tincture of opium for several weeks before and the fact that he was in possession of tincture of opium and a hypodermic needle and the spots upon his body, is that correct?

A Yes, on these spots where the injections were made and the fact that he told me himself that he had made these injections.

Q And you have now related to the court everything upon which you base your conclusion that he was a morphine addict, is that correct?

A Yes, as far as I can remember.

Q How frequently does a person have to take morphine, doctor, in order to become an addict?

A How much — that varies a great deal.

Q With respect to what?

A It depends on the amount especially.

Q And what would be the amount that would constitute the longest time that he would have to take it in order to become an addict and what would be the amount that he would have to take in the shortest period of time in order to become an addict?

A I don't understand this question.

Q Do you understand the language that is used, doctor?

A Yes, but I don't understand this question.

Q Did you state that in order to determine what length of time that a man must be exposed to the use of a drug in order to determine whether he becomes an addict or

Ta 56-10/
FILMED

not it depended upon the quantity of the drug that he'd take

A I say that the amount, the quantity, is very varied.

Q Well, what determines the length of time that a man must be exposed to the drug in order to become an addict of that drug?

A It depends on the repeated usage of opiates.

Q And how frequently does he have to make the use of those opiates in order to become an addict?

A I can't give you any number in answer to this question because it varies very much.

Q Varies with what, doctor?

A It depends on the quantity of the opiate used.

And I again ask you the question now, doctor, what quantity would a man have to take in order to become a drug addict in the shortest period of time?

A I can't answer that question.

Q Do you mean by that, doctor, that you do not have sufficient experience in which to answer that question?

A No, that isn't what I mean. I mean to say that you can't answer that question that way.

Q Well, answer that question any way you can please, doctor, if you can answer it.

A A man who craves morphine uses various amounts of morphine at various times.

If a man craves morphine one time does that make him an addict?

A No.

How long [illegible] have to crave it then, doctor, before he becomes an addict

A. At least several weeks.

Other than the spots that you noticed on Paul Toermer's body did you see any other physical signs that would denote that Toermer had been addicted to using opiates over a long period of time?

A. If the injections are made sterilely then the appearance of these injections on the skin disappears one or two days after.

Would you read the last question to me please? (Thereupon the reporter read the last question.)

A. No.

Is there not quite a serious destruction of body tissue if injections of tincture of opiate are made with a hypodermic needle?

A. Tincture of opium is an alcohol derivative. It is sterile.

You answer my question please, doctor.

Yes, it is sterile. It is nothing that can cause infections.

Q. Well, is there a serious destruction of the tissues where this injection is made?

A. No.

Q. Did you know, doctor, prior to the time that you examined Paul Toermer that he had been in the hospital from December 1949 until March 1950 complaining of gall bladder trouble.

A I can't remember that, no.

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Doctor, when you examined Paul Toermer on the 9th of April 1946 just what was your diagnosis?

A My diagnosis was that he had often injected himself with tincture of opium.

Q Do you mean by that, doctor, that he was a drug addict?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

DEFENSE COUNSEL: No.

PRESIDENT: Prosecution?

PROSECUTION: Nothing further, sir.

PRESIDENT: The court understands the defense has finished with this witness. The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: Dr. Wacker?

DR. WACKER: Karl Nill now appears as witness for Pawliczek. I must tell the court that the wrong witness has come out of the bunker. They sent the wrong Karl Haensel, that's why I called the witness Nill over here.

PRESIDENT: Doctor, are you ready to proceed with this particular witness?

DR. WACKER: Yes I am ready to start with this witness but I want to stop proceedings to get the other witness too, but I can start with this one.

PRESIDENT: Doctor, I wish you would refer that matter right to Colonel Wilson at the first opportunity.

KARL FRIEDRICH NILL, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Nill, please tell the court your full name?

A Karl Friedrich Nill.

Q When were you born?

A The 11th day of July 1905.

Q Where?

A In Ingelfingen, province Wuerttemberg.

Q What is your civilian profession?

A Mechanic.

Q Are you married?

A I am single.

Q What is your present location?

A Camp 3.

Q Are you in arrest; are the American authorities holding you?

A Yes.

PRESIDENT: The court advises you at this time that if you should be asked any question which might tend to incriminate you that you have a right to request the court to refrain from answering same. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Dr. Wacker.

Tn 562-10/30-DHC-12
FLOSSENBURG

Q Were you ever in Flossenburg?

A Yes.

Q When?

A December '40 until July '42.

Q In what capacity were you in Flossenburg?

A As a clerk and medic in the troop hospital.

Q Were you a member of the SS?

A Yes.

Q What rank did you have?

A The last rank I had in Flossenburg was sergeant of the SS.

Q Do you know a man called Pawliczek?

A Yes.

Q Please look over in the dock and see if you can recognize Pawliczek and point at him.

A (Indicating) 34.

DR. WECHER: Let the record indicate that the witness has identified Pawliczek as No. 34.

Q What did you have to do with Pawliczek in Flossenburg?

A Pawliczek reported sick in December 1941.

Q What was wrong with him then?

A He had a nerve illness.

Q What form did that take?

A He kept shaking his head.

Q Do you know how this illness was treated?

A Pawliczek was transferred to the SS hospital in Berlin.

(Mill - Direct)

Q Do you know how long he stayed there?

A I can't tell you exactly. He was turned over there at the end of December or beginning of January and stayed in Berlin for a number of weeks.

Q Can you tell us about when Pawliczek returned from Berlin?

A I was in Berlin in March 1942 taking part in a medica course and I met Pawliczek in the SS hospital in Berlin.

Q Did you visit him there?

A No I didn't visit him. I came into this SS hospital as part of my course, medica course, and I met him by accident.

Q Do you remember the state of health that Pawliczek had then when you met him in March '42?

A I can't remember any more.

Q Were people talking about the fact that he would be released already?

A He told me himself it would be two or three weeks.

Q Where was Pawliczek between the time when he was first sent to Berlin in this hospital the end of December or beginning of January up until the time when you visited him in Berlin? Was he in Berlin at that time or was he in Flossenburg?

A He could only have been in Berlin.

Q Please estimate as accurately as you can when Pawliczek returned to Flossenburg from Berlin.

A I was in Berlin in March. It must have been at the beginning or middle of April.

Q Do you know how long Pauliszek was in Flossenburg?

A No I don't know that. I left Flossenburg in July '42.

DR. WACKER: No more questions.

PRESIDENT: Cross-examination?

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q When did you join the Waffen SS?

A I was drafted the 9th day of the ninth month, 1939.

Q When did you join the Allgemeine SS?

A 1939.

Q When did you join the Death Head Unit of the SS?

A I was drafted in 1939 to Berlin.

Q And that was the date that you went into the Death Head Unit of the SS, is that correct?

A Death's Head Unit? That was the SS, the Waffen SS.

Q You were in the Death Head unit of the SS were you not?

A No.

Q Do you know what the Death Head Unit of the SS is?

A Yes. The Death's Head Unit was before that, before 1939.

Q Were you ever a member of that unit?

A No.

Q What insignia did you wear on your collar?

A A death's head with the division. That was the insignia of the division.

Q And you were not a member of that division, is that right?

A I was a member of the division but not a member of the Death Head Unit.

Q What was the difference?

A The Death's Head Units were active soldiers.

Q What were you?

A Reservist — reserve.

Q Were you reservist in 1939?

A Whether I was a reservist then?

Q Were you a reservist in 1939?

A Yes.

Q What do you mean you were drafted into the SS then?

A Just like any soldier is drafted whether they're drafted to the army or not.

Q Well, did you go on active duty in 1939?

A No, reserve.

Q When did you go on active duty?

A I never was on active duty.

Q Well, what were you when you were serving in Flossenburg?

A Clerk and medic.

Q And at that time you didn't wear a uniform did you?

A Sure I did.

Q And what was the uniform? Of what unit did you wear a uniform?

A The SS uniform. That was the same uniform they had in the army except it had different collar insignia.

Q And what was the collar insignia that you wore?

A At the beginning we wore a death's head and later on the SS insignia, the two lightning rods of the SS.

Q And were you a reservist when you were serving in Flossenburg?

A Whether I was a reservist?

Q Yes. Were you or were you not?

A Yes.

Q And you don't call being on duty in Flossenburg, working in the hospital there, active duty, is that correct?

A There are two different things, whether you're an active soldier or whether you have active duty.

Q Well, did you have active duty in Flossenburg in the Death Head Unit of the SS?

A There wasn't any Death's Head Unit any more then. In 1939 the Death's Head Units of the SS were deactivated.

Q And they started doing concentration camp duty did they not?

A I don't understand the question. No, then it was all called Waffen SS.

Q You left Flossenburg in January 1942 did you not?

A In July 1942.

Q Are you sure it was not January 1942?

A No. In July I was ordered to leave Flossenburg and go to Berlin.

Q You remember making out a "fragebogen" on the 31st day of July 1945?

A Whether I filled one out?

Q Yes. Do you remember filling one out at that time?

A I filled one out but I don't remember the exact date any more.

Q Were you born on the 11th of July 1909?

A Yes.

A Yes.

Q And were you born in Endingen?

A Endingen in Wuerttemburg.

Q At the time you made out that "fragebogen" on the 31st of July 1945 I'll ask you to state whether or not you stated that you were in the Concentration Camp Flossenburg from December 1940 to January 1942 and that you held the rank of "rottenfuehrer" in the sanitary corps?

A Yes that's right. I did that.

PRESIDENT: Now the court would like to find out from the interpreter the meaning of that word "rottenfuehrer".

INTERPRETER: "Rottenfuehrer" means corporal in the SS.

PRESIDENT: The court will take a half-hour recess.

(Whereupon the court recessed at 1500 hours.)

CAMP DACHAU, GERMANY
30 October 1946

AFTERNOON SESSION (Continued)

(Whereupon the court reconvened at 1545 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all members of the court are present; all the personnel of the prosecution are present except Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present; all the accused are present except Oswalt, Matzko, Olschewski, and Jacobith, who are sick and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in the case, will they please leave the court room?

PRESIDENT: Continuation of cross examination, Mr. Denson.

PROSECUTION: I have no further questions.

KARL FRIEDRICH MILL, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR HACKER:

Q Mr. Mill, was it the usual procedure when a patient had been confined to a hospital several weeks or several months to get a furlough subsequent to that?

A Yes.

Q Do you know whether Jadliczak received such a furlough?

A Yes.

Q When you calculate as to when he came back to Flossenburg, did you take this leave into consideration?

A No.

Q Considering the leave, when did Pawliczek report for duty to Flossenburg again?

A In the beginning of May.

DOCTOR WACKER: Thank you.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Who else was on sick leave at that time?

A Somebody who was sick who came back from the hospital.

Q Who else was on sick leave from Flossenburg at that time?

A I can't remember that.

Q Who else was sick in the hospital in December, 1941?

A Do you mean sick in the dispensary or sick in the hospital? If he was sent to a hospital it could have been outside the garrison as well.

Q What other SS men were sick in the hospital in December, 1941, in Flossenburg?

A I cannot remember any names.

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You have testified that Pawliczek was sick in the hospital in December, 1941, due to nerves. How do you know he had difficulty with his nerves at that time?

A Because I made out assignment papers.

Q Was that the diagnosis of the medical officer?

(Mill-court)

A He was sent to Berlin for observation because of his illness of nerves.

You have not answered my question. Was that the diagnosis of some medical officer?

A Yes.

QUESTIONS BY COLONEL JACKSON:

Q When did you leave Flossenburg to go to medical school in Berlin?

A It was in the beginning or the middle of March.

Q And when did you return?

A I was in Berlin for ten days.

QUESTIONS BY THE LAW MEMBER:

Q Just before the afternoon recess the prosecution asked you if you did not state in your fragebogen, or questionnaire, that you had left Flossenburg in January and that at the time you were a rottenführer?

A I left Flossenburg in July, 1942.

Q Well, I am sure that prior you said you left Flossenburg in July, 1942, but why did you answer the question of the prosecutor by saying you left in January, 1942?

A I didn't do that.

Q You must have misunderstood my question, because it was my understanding that you said in answer to the prosecution's question that you left in January, 1942.

A Up to January, 1942, I was a corporal in the SS.

Q You made out a questionnaire which you filed back in 1945 some time, is that correct?

A Yes.

(Mill-court)

Q In that fragebogen did you give the date you left Flossenburg?

A Yes.

Q What date did you give in that questionnaire?

A July, 1942.

LAW MEMBER: That is all.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q Did you state in your questionnaire that you were a corporal in the SS up to January, 1942?

A I don't remember such a questionnaire at all.

Q Please explain to the court why this date, January, 1942, appears in your questionnaire.

A It was my signature affixed to this questionnaire.

Q Did you not state just now that you were a corporal in the SS until January, 1942?

A Yes, I did so.

Q What were you after that?

A In January I was promoted to sergeant.

Q Did you state in your questionnaire that you were a sergeant up to June?

A I can't remember what kind of questionnaire that was.

Q Did you have any cause or reason to conceal something?

A No.

DOCTOR WACKER: That is all.

PRESIDENT: Recross.

(Hill-redirect)

RECROSS EXAMINATION

PROSECUTION: Will the reporter mark this Prosecution's Exhibit No. 78 for identification, please?

(Whereupon the document, being a copy of a questionnaire signed by Hans Nill, was marked Prosecution EXHIBIT No. 78 for identification.)

QUESTIONS BY THE PROSECUTION:

Q I hand you a document marked Prosecution Exhibit No. 78 for identification and ask you to state whether that was the fragebogen filled out on the 31st day of July, 1945?

A Yes.

PROSECUTION: That is all.

PRESIDENT: The court would like to see Prosecution Exhibit No. 78 to check its authenticity. Are there any questions by the court?

LAW MEMBER: Will the prosecutor let me see that exhibit?

PROSECUTION: I have not offered it yet.

LAW MEMBER: But you have already identified it.

PROSECUTION: I don't know how proper that may be. I only asked the witness to identify Prosecution Exhibit No. 78. If the court wants to look into the matter before it is offered, that is all right, but I doubt the propriety of it.

PRESIDENT: You may question the witness, but conduct your examination in compliance with the questions propounded by the prosecutor.

EXAMINATION BY THE COURT

QUESTION BY THE LAW MEMBER:

Q I observe that the exhibit marked Prosecution Exhibit No. 78 is written out on a typewriter. Did you write that with a typewriter?

(Nill-court)

PROSECUTION: I object to that on the grounds that it is improper. He has no right to look at it. It has not been introduced or accepted into evidence. It is improper for him to have any knowledge of it until it has been offered to the court for its consideration.

LAW MEMBER: I withdraw the question.

QUESTIONS BY THE LAW MEMBER:

Q Is that questionnaire in your handwriting?

A No.

Q How is it written?

A With a typewriter.

Q Did you write that with a typewriter?

A No, not I.

Q Have you ever seen that particular paper which you hold in your hand, before?

A No.

Q Is your signature attached to it anywhere?

A No.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q Please give the court an explanation why it says up here Technical Sergeant and down here Corporal (indicating).

A That is not my statement. That must have been put in later. I never stated this which is put in here (indicating).

DEFENSE COUNSEL: May I have a few minutes?

(Mill-redirect)

PRESIDENT: Certainly. The court will take a short recess.

(Whereupon the court recessed in place and reconvened at 1605 Hours.)

PRESIDENT: The court will come to order. Continuation of redirect.

REDIRECT EXAMINATION (Continued)

QUESTIONS BY DOCTOR MACHER:

Q Mr. Nill, on this questionnaire up here where the personnel data is stated, did you give your rank as corporal? (Indicating)

A Yes.

Q And down here where the questions appear did you give your rank as technical sergeant (indicating)?

A Technical sergeant.

Q Were you a corporal up to January, 1942?

A Yes.

Q When were you promoted to technical sergeant?

A November, 1943.

Q Did you write this remark in your own handwriting on the original?

A No.

Q When you specify "this remark", please tell the court exactly which statement you did not make in your own handwriting on this questionnaire.

A "Concentration Camp of Flossenburg, December, 1940 to January, 1942, corporal in the SS Medic". That could not be right because in the camp in Nuernberg I was asked for the first time whether I was on duty in a concentration camp, and that was after I left the camp of

Aschaffenburg.

Q Were you promoted in January, 1942?

A Yes.

Q From which rank to which rank?

A From corporal to sergeant.

Q Then is the questionnaire correct in substance? I mean with reference to the remark which you did not make in your own handwriting?

A No.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Mill, where were you when you made out the fragebogen of which Prosecution Exhibit No. 78 is a duplicate?

MR. MC KAY: If the court please, I object to the prosecution including in his question the statement that that is a duplicate. That is purely a conclusion that should be established by a proper question which is not in evidence.

PRESIDENT: The objection is sustained.

QUESTIONS BY THE PROSECUTION:

Q Where were you when you filled out the fragebogen with the data that appears under the title "Personal Data" on the document marked Prosecution Exhibit No. 78 for identification?

A In the camp of Klesenfeld, near Aschaffenburg.

Q At that time were you interrogated by any members of the CIC?

A No.

Q By whom were you interrogated?

A That was a team and the questionnaires were filled out by them.

(Mill-recross)

Q Did you furnish the information from which the questionnaire was filled out?

A Yes, but not this, sir (indicating).

Q Did you furnish them the information that your family name was Hill?

A Yes.

Q And that your first name was Karl?

A Yes.

Q That your rank was technical sergeant?

A Yes.

Q And that you were born on the 11th day of July, 1907?

A Yes.

Q And that you were born in Endingen?

A Yes.

Q That the unit you were in in the camp was the medical department?

A Where? In which camp?

Q Any camp.

A I don't know what you mean, "any camp". There was no medical unit.

Q There was no medical unit where?

A In Flossenfeld, near Aschaffenburg, when I was in camp.

Q Did you tell them you were in the medical department of Camp Flossenburg?

A I wasn't asked this question.

Q Were you asked whether you were a member of the party?

A Yes.

(Hill-recross)

Q Did you tell them you were?

A Yes, I said so.

Q From 1934 to 1945?

A Yes.

Q And did you not also tell that same group that you were a staff sergeant from 1933 to 1939, in the SS?

A In the Allgemeine SS.

Q Did you not tell them you belonged to the DAF from 1934 to 1939?

A Yes.

Q Did you not also tell them you were a member of the NSV from 1937 to 1939?

A Yes.

Q Did you not also tell them you were a member of the DRK from 1929 to 1945?

A 1945, yes.

Q Did you not also tell them you were a member of the Waffen SS, attaining the rank of technical sergeant?

A Yes.

Q Did you not also tell them you were drafted in 1939 as a sanitary man?

A I wasn't drafted as a sanitary man — as a medic.

Q You were drafted in 1939?

A Yes.

Q You were thereafter a sanitary man?

A I was drafted in 1939, received my training with the Death Head Division, participated in the western campaign, and was discharged

(Hill-recross)

in 1940, on the 15th day of September, 1940, and was then redrafted on the 15th of November, 1940. Then I was picked out as a medic in Berlin, because of a disorder of my stomach. I suffered from an illness of the stomach. I was picked out on the basis of my training which I had in the German Red Cross and the Allgemeine SS.

PROSECUTION: No further questions.

REDIRECT EXAMINATION

QUESTION BY DOCTOR WACKER:

Q Was this Death Head unit a line outfit?

A Yes.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q I understood you to testify to the effect that when Pawliczek was sent to the hospital in December, 1941, he remained in the hospital for several weeks, is that correct?

A No.

Q How long did he remain in the hospital?

A He wasn't in the hospital at all. He only had to report there for ambulatory treatment.

Q Are you referring to the hospital in camp, or the hospital in Berlin?

A I am talking about the SS hospital in Flossenburg.

Q When did he go into the hospital in Berlin?

A I cannot remember any exact date, but it could only have been towards the end of December or the beginning of January.

Q How long did he remain in the SS hospital in Berlin?

A I was in Berlin in the SS hospital for an instruction course in March.

Q Did you see him in the hospital at that time?

A Yes.

Q Are you sure that was March, 1943?

A Yes.

(Mill-court)

Q You were referring to March, 1942, rather than March, 1943?

A March, 1942.

Q Do you know positively whether Pawliczek had been in the hospital that entire time? The court is referring to the SS hospital in Berlin.

A Yes.

Q Are you just assuming that, or do you know positively?

A Well that is quite evident. It is obvious, otherwise it would have said so on his papers and on his discharge certificate.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTION BY DOCTOR WACKER:

Q Are the dispensary and the hospital the same things?

A No.

DOCTOR WACKER: Usually the word "revier" is translated as "hospital". That was the reason I asked this question.

RECROSS EXAMINATION

QUESTION BY THE PROSECUTION:

Q What was the address of this hospital in Berlin?

A SS Hospital, Berlin, Lichterfelde West Under the Oak Trees.

PRESIDENT: Are there any further questions by members of the court? Apparently not. The court understands the defense has finished with this particular witness at this time. The witness will be excused.

PROSECUTION: May it please the court, before he leaves I should like to have leave to cross examine this witness further as a

(Nill-recross)

later date. In other words, when he comes back, I do not want to be put in the position of calling him as my witness. I think the reason for that request is obvious to the court.

DOCTOR WACKER: Then I should like to request the court to ask the prosecution to cross examine the witness right now.

PRESIDENT: The court understands that the defense is finished with this particular witness, is that correct?

DOCTOR WACKER: Well, it is my standpoint that now, as long as I am present here, the prosecutor has the opportunity to cross-examine this witness, but if he is going to be recalled, he is going to be a witness of the prosecution.

PROSECUTION: May it please the court, that is exactly what I want to have understood. At the present time I am not in a position to carry on further cross-examination of this witness with respect to the document which was brought before the court. This document which has been marked as Prosecution Exhibit No. 78 for identification is not the original. For that reason, when the original is available I should like to have the opportunity to recall the witness and cross-examine him on the original at that time. That will be done in the presence of Doctor Wacker.

PRESIDENT: The court will be closed.

(Thereupon the court closed at 1630 hours.)

(Thereupon the court opened at 1650 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all members of the court are present; all the personnel of the prosecution are present except Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present; all the

accused are present except Oswalt, Matake, Olschewski, and Jakubith, who are sick and whose interests are being taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in the case, will they please leave the court room?

PRESIDENT: The objection of defense counsel, Doctor Wacker, is overruled. The court has granted the request of the prosecution under the circumstances as stated.

DOCTOR WACKER: I now call as the next witness KARL HAENSEL, who is going to testify on behalf of the accused, Pavlicek.

KARL HAENSEL, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q Please state your full name to the court?

A Karl Haensel.

Q How old are you?

A Thirty-two.

Q Where do you live?

A My residence used to be in Flossenburg, and now it is in Thumsenreuth.

Q What is your present location?

A In the special camp.

Q Are you being held prisoner of the American authorities?

A Yes.

PRESIDENT: The court at this time advises you that if you should be asked any questions that might tend to incriminate you, you have the right to ask the court's permission to refrain from answering it. Do you fully understand?

THE WITNESS: Yes.

DEFENSE:

QUESTIONS BY THE ~~PROSECUTION~~:

Q What is your civilian occupation?

A I am a stove fitter by my occupation.

Were you ever at Flossenburg?

A Yes.

I am talking about the camp of Flossenburg.

A Yes, I was there also.

Q From when to when?

A I was transferred to Flossenburg on the 1st of September, 1938, as a block leader.

Q How long did you stay in Flossenburg?

A Up to the 11th of February, 1945, however, not as a block leader.

Q What rank did you have at that time?

A Master sergeant in the SS.

Q Was that when you arrived in Flossenburg or when you left Flossenburg?

A When I left Flossenburg.

Which rank did you have on January 1, 1942?

A On the 1st of January, 1942, I was a technical sergeant of the SS.

Q What were your duties in Flossenburg?

A On the 1st of January, 1942? I was chief of the troops' kitchen at that time.

Q Do you know a person by the name of Pawliczek?

A Yes.

Q Please look around and see if you recognize Pawliczek, and if so, point him out.

(Haensel-direct)

A The fifth man in the second row (indicating).

DOCTOR WACKER: Let the record show that the witness has identified the accused wearing No. 34 as Pawliczek.

Q Do you know whether Pawliczek was in Flossenburg on January 1, 1942?

A Yes, he was there, he was there in 1942.

Q How long was Pawliczek in Flossenburg?

A Until he was transferred to the front.

Q When did that take place?

A That must have been toward the end of September or the beginning of October, 1942.

Q Do you know if and when shootings of Poles took place in Flossenburg?

A No, I don't know whether shootings of Poles took place in Flossenburg. I only know that several shootings were performed in the year of 1941, but whether the persons in question were Poles I do not know.

Q Do you know under whose command these shootings took place?

A As far as I remember, SS Captain Aumeier was in charge of these shootings.

Q Do you know when Aumeier was sent away from Flossenburg?

A When we celebrated Christmas in 1941, SS Captain Aumeier wasn't there any more.

Q Do you know whether Pawliczek was ever ill?

A Yes, I can remember that Pawliczek, who was a staff sergeant, was ill.

Q Do you know what he was suffering from?

(Haensel-direct)

A Well, apparently there was something wrong with his nerves.

Q Do you know any of the details?

A Well I know that he was sent to a hospital because of this illness, but for how long a period of time I don't know.

DOCTOR WACHER: No further questions.

CROSS EXAMINATION

QUESTIONS BY MR. BORKOWITZ:

Q Are you positive that Aumeier left before Christmas, 1941?

A I know that he wasn't there at the Christmas celebration in 1941, because I had to take care of this celebration, and the gift we wanted to give him for Christmas we had to send up to his apartment which was located in the settlement.

Q Did he come back after Christmas, 1941?

A Well, as far as I know, he came back once, but he changed his apartment.

Q When was that?

A That must have been prior to Easter, 1942.

Did he perform any duties at that time?

A No. At that time SS Captain Fritsch was compound commander.

Q If you were to see certain papers executed in Flossenburg and signed by Aumeier after Christmas, 1941, would you change your testimony?

MR. MC KAY: Just a moment. That question is objected to for the reason that it contains a hypothesis for which there is no foundation. There is nothing in this record which shows there was any document which shows Aumeier was at Flossenburg after December, 1941.

(Resumed-cross)

PRESIDENT: The objection of Mr. McKay is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q You insist, therefore, that Aumeier performed no duties at Flossenburg subsequent to Christmas, 1941?

A I only know that the Christmas present for SS Captain Aumeier was sent up to his apartment and that during the first days of January Captain Fritsch was on duty.

Q Will you answer my question? Do you insist that Aumeier performed no duties at Flossenburg after Christmas, 1941, or don't you know?

A I myself was away on Christmas leave in 1941 and I came back in January sick and at that time Captain Aumeier wasn't there any more. He wasn't on duty.

Q Do you or do you not know whether Aumeier performed any duties at Camp Flossenburg after January 6, 1942?

A I don't know.

Q After the departure of Aumeier, weren't the executions continued under Schirmer and Fritsch?

A I don't know of any such thing.

Q Haensel, have you been informed by the defense counsel that you have been named by one of the defendants as a member of the firing squad that carried out executions?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Mr. Berkowitz, the court directs that if the prosecution has any documents indicating that Captain Aumeier was on official duty at Flossenburg on or after January 1, 1942, that they be produced to the court.

(Haensel-cross)

Ta 563 10/30-Lob
-19-Flossenburg

MR. BERKOWITZ: Yes, sir, they will be produced in rebuttal.

PRESIDENT: The court will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 31 October 1946.)

Erste Anklage

Einzelheiten

Zweite Anklage:

Einzelheiten

The above charges are referred to the *Summary / *Intermediate / *General Military Court to be held

Die Verhandlung wird von dem *Einzelrichter / *Militärischen Beisitzer / *Oberen

19

Ankläger / Anklägerin

Uhr stattfinden

By Order
Im Auftrage von

*Delete as not applicable
*Nichtzutreffendes durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

19

Copy of above charges received this day
Abschrift der Anklageschrift erhalten am

(Signature of accused)
(Unterschrift des Angeklagten)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on ..... 194 .....
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

Copy of above served on accused ..... 194 .....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

Pages 5920 - 6002 Incl.

Case No. .....

Prosecutor .....

~~*Summary~~
~~*Intermediate Military Court~~
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 31 October 194 6
0900 - 1700 Hours

Reporter .....

~~Members of Court:~~

WITNESSES:

KARL HAENSEL
CLEMENS DIEDERICH

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BUCKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

31 October 1946 0900 - 1700 Hours Pages 5920 - 6002 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
KARL HABNEL		5920	5922		5923
CLEMENS DIEDERICH	5926 5929 5951	5952	5956 5968	5973 5990 5997	5957 5976 5991

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
P-79	Protective Custody Special File of Johannes Schild	5920	5950
P-79-A	English Translation of P.47	5951	5951

Camp Dachau, Germany
31 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present; all the personnel of the defense are present, with the exception of Mr. O'Connor, who is absent on business of the accused; all the accused are present, with the exception of Eisbusch, Olschewski, Oswalt, Jakubith, and Matzke, who are sick, and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination, Mr. Berkowitz.

KARL HAENSEL, called as a witness for the defense, resumed the stand, and being reminded that he was still under oath, restified further through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Haensel, in the course of your duties at Flossenburg, did you become familiar with the signature of Aumeier?

A Yes.

MR. BERKOWITZ: I ask the reporter to mark this document Prosecution Exhibit No. 79 for identification.

(The document referred to, being Protective Custody Special File of Johannas Schild, was marked Prosecution Exhibit No. 79 for identification.)

Q Mr. Haensel, I show you Prosecution exhibit marked No. 79 for identification and ask you what it is.

A Protective Custody Special File of Johannas Schild, born on the 7th of March 1914 in Flensburg.

Q I call your attention to page 47 of this record, partic larly to the signature at the bottom in the center, and ask you whose signature that is?

A That is the signature of SS Captain Aumeier.

MR. BERKOWITZ: If it please the court, Prosecution Exhibit No. 79 for identification has been identified as one of the records of one of the prisoners named Johannas Schild. This record was found, amongst others, at Flossenburg by the American authorities and has been in the custody of American authorities since the time of the liberation of the camp.

PRESIDENT: The court would like to check the document for its authenticity.

MR. BERKOWITZ: If the court please, I offer that record in evidence as Prosecution Exhibit No. 79.

PRESIDENT: Any objection on the part of defense?

MR. HALL: May we please examine it, sir?

PRESIDENT: The court would like to have the assistant prosecutor indicate the authenticity of this record for the court.

MR. BERKOWITZ: I call the court's attention to page 47 of the record, showing the signature of Aumeier, which has been identified by the witness, bearing the date of 20 January 1942.

PRESIDENT: Well, Mr. Prosecutor, just what does this pertain to—this communication that is before the court with this alleged signature?

MR. BERKOWITZ: If it please the court, I will ask the witness to read that and I will have it translated.

PRESIDENT: Defense will have an opportunity to check over the document. The court will take a short recess in place.

(Whereupon the court recessed in place at 0925 hours and reconvened at 0930 hours.)

PRESIDENT: The court will come to order. Has the defense any objection to the introduction of Prosecution Exhibit No. 79 in evidence?

DR. WACKER: No.

PRESIDENT: Mr. Prosecutor, does the court understand that you desire to introduce this whole record or just this one communication?

MR. BERKOWITZ: Just that portion of the record, sir. Prosecution

will intfoduce only page 47.

PRESIDENT: That isn't the way the exhibit appears at the present time. It indicates the whole document will be entered in evidence.

MR. BURKOWITZ: We offer in evidence, sir, only so much of it as pertains to page 47 of Prosecution Exhibit No. 79 for identification.

PRESIDENT: The court understands you are planning on having a copy in English made of this page 47.

MR. BURKOWITZ: Yes, sir, if the court will grant me permission I will have an English translation properly prepared to introduce as Prosecution Exhibit 79A.

PRESIDENT: The court will hold this matter in abeyance until the English translation is available.

MR. BURKOWITZ: No further questions.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Haensel, you just saw the signature of Aumeier which he gave on I think the 20th of January 1942. Can you explain that to the court after what you told us yesterday?

A I can only explain it to mean that at that time when he gave this signature he was just turning over the camp to the new prison commander.

Q Was Aumeier still on duty in the camp after the time you stated yesterday?

A I don't know that exactly, as I already said yesterday. I came back from my furlough on the 6th and at that time Aumeier was not there.

Q But according to this document which was just shown to you, he must have been present on the 20th of January.

A I cannot remember having seen SS Captain Aumeier at that time. I don't know whether or not he was there.

Q Yesterday you stated that Pawlicsek had been transferred to the front during the first days of October 1942. Do you know whether or not

he received a leave before that?

A As far as I know, everybody who was transferred to the front received a furlough first.

Q When can we assume under these circumstances that Pawliczek quit his job in Flossenburg?

A That must have been around the 20th of September.

Q What year?

A 1942.

MR. WACKER: No further questions.

QUESTIONS BY MR. HALL:

Q Mr. Haensel, I call your attention to Prosecution Exhibit No. 79 for identification, page 47. You will note that above the three signatures at the bottom there are several entries in pen and ink, including the name and various dates. Do you know in whose handwriting those dates and pen and ink insertions are made?

A No, I don't know.

Q Do you know whether or not those entries in pen and ink were made before or after the signatures that appeared at the bottom of the page?

A I can't say that either; I don't know. I don't know this document at all.

PRESIDENT: Recross examination?

MR. BERKOWITZ: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Now, Haensel, had you had an opportunity previously to observe the signature of Captain Aumeier?

A Yes, but only on rare occasions because I didn't have anything to do with him.

Q What were the rare occasions when you had an opportunity previously to observe the signature of Captain Aumeier?

A When I received a pass to enter the prison compound to go over to

the depot, or if I needed somebody to help me in the kitchen, some prisoners to work, Captain Aumeier had to give his signature to assign the prisoners.

Q Well, how many times was that now?

A That could have been ten or twelve times during all these years beginning 1938.

Q And during a period covering how long?

A From 1938 until SS Captain Aumeier was transferred.

Q Are there any peculiar characteristics about that signature that would make you certain it was Captain Aumeier's?

A Yes, he makes a curve; he underlines his name.

Q He just puts a line under his name, is that it ?

A Yes.

Q Are there any other characteristics peculiar to Captain Aumeier's signature?

A Yes, and this "A". He used to make a closed "A".

Q Well, isn't that the usual procedure in making an "A"?

A Well, I, for instance, make a different "A" and somebody else might make another one.

Q The court wants to know are you positive that that is Captain Aumeier's signature or were you relying on any typewritten indication below it?

A No, I relied on the line under his name.

Q You relied on the line under his name. What did you mean by that?

A Yes, because that was characteristic for a signature of Aumeier.

Q Well, at that particular time was there any other SS Hauptsturmfuehrer in Flossenburg except Aumeier?

A At that time, I couldn't remember.

Q You don't remember?

A No, there were only three other officers but there were no

(Haensel-Court)

captains.

Q He was the only captain there, then?

A Well, maybe SS Captain Brenneis. He was the administrative officer. He could have been there at that time, but I am not sure.

Q Well, did the fact that this officer's rank was indicated right below his signature assist you in making this identification of this signature?

A Yes, sure it assisted.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

DR. WACKER: No further questions.

PRESIDENT: Prosecution?

MR. BEEKOWITZ: Nothing further, sir.

PRESIDENT: The court understands the defense is finished with this witness for the time being?

DR. WACKER: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. MCKAY: If it please the court, at this time we have a witness who has been brought in from French territory, from Trier, who has just been sent in, and request the opportunity to have him appear at this time because he did not arrive at the time of presentation of my case.

PRESIDENT: Mr. McKay, you say he has just arrived. Have you had a chance to interrogate him?

MR. MCKAY: Pardon me. He has been here for a day, but may I explain to the court, in the beginning we had to request out of other territories through Wiesbaden and they are just beginning to arrive now,— the witnesses from other territories.

PRESIDENT: Mr. McKay, can you tell the court just what this difficulty is? Is it the difficulty of getting the witness out of the French Zone, or is it difficulty with some headquarters not getting

these witnesses here when requested, or what is it?

MR. MCKAY: As I understand it, sir, Wiesbaden has been short of personnel and up until recently they have not had sufficient personnel to send a team and the men tell me that are now arriving that they were picked up by a team of American personnel who went into the territory and brought them out and brought them to Wiesbaden. Under the present procedure we must file our requests to Wiesbaden to get people out of other zones.

PRESIDENT: Then the court understands the delay is due to lack of personnel at Wiesbaden to get these witnesses in here at the indicated time, is that right?

MR. MCKAY: That is what I understand from Wiesbaden.

PRESIDENT: The court will grant your request.

MR. MCKAY: Defense calls Clemens Diederich on behalf of the accused Nos. 14, 23 and 1.

CLEMENS DIEDERICH, called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Will you state your name for the court.

A Clemens Diederich.

Q Where do you live at the present time?

A In Trier, on the Mosel River.

Q Which zone of occupation is that?

A The French Zone.

Q Is that in Germany?

A Yes.

Q Mr. Diederich, were you a prisoner in Flossenburg Concentration Camp?

A Yes.

Q When did you arrive at Camp Flossenburg, Mr. Diederich?

A On the 30th of March 1942.

Q And how long did you remain in Flossenburg?

A Until the 15th of April 1945.

Q While you were in Flossenburg what color of triangle did you wear?

A A red triangle.

Q Will you explain briefly to the court why you were sent to a concentration camp?

A Prior to 1933 I was a political functionary of the Communist Party and in 1933 I escaped from Germany and participated in the war in Spain on the Red side.

Q During the time that you were in Flossenburg, Mr. Diederich, to what detail were you assigned to work?

A I belonged to the administrative workshops, to the installers shop and to the plumbers shop.

Q When you say "administrative workshops" what do you mean?

A There were three subdivisions made in camp, administration, stone quarry, and Messerschmidt factory.

Q Where were your duties performed?

A In the camp area.

Q During the time that you were a prisoner in Flossenburg, did you ever come in contact with another prisoner by the name of Karl Gieselman?

A Not Karl Gieselman, Fritz Gieselman. We knew him as Fritz Gieselman.

Q And where did you know Mr. Gieselman?

A I got to know him when he was in charge of the prisoners' canteen in Flossenburg.

Q Do you think you could recognize Mr. Gieselman if you saw him again?

A Yes.

Q Will you look over the men seated in the dock behind me and see if you can identify the man that you knew of as Gieselman in Flossenburg?

A Yes, the one who is wearing glasses over there. (Indicating)

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 14 as Gieselman.

PRESIDENT: Court will take a half hour recess.

(Whereupon the court recessed at 1000 hours.)

Take 565
McDonald
19/31 - 1
Floss.

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the court are present; all the members of the prosecution staff are present with the exception of Colonel Denson and Mr. Pinter, who are absent on business of the prosecution; all the members of the defense are present, with the exception of Colonel Wilson, who is absent on business of the accused; all the accused are present, with the exception of Eisbusch, Olschewski, Oswalt, Jakubith, Matzke, and Pens, who are sick and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

CLEMENS DIEDERICH, called as a witness for the defense, resumed the stand, and being reminded that he was still under oath testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. McKAY:

Q Mr. Diederich, during the time that you were a prisoner in Flossenburg in which block did you live?

A I stayed in block 1, block 2, block 3.

Q When did you live in block 19?

A In the spring of 1944 I was quartered in block 19 up until the Fall, July or August of 1944.

Q Will you explain to the court what the occasion was for your moving from block 19?

A That varied. The prisoners were shifted around and it was well known that in block 19 there was a section there for homosexual prisoners.

Q What was the age of these homosexual prisoners?

A . In various ages from twenty-five years old up to forty.

Q You stated before the recess that you knew Gieselman when he was in charge of the canteen. Was he in charge of the canteen all the time that you knew him in Flossenburg?

A Yes. Before that there was a certain Czech, Millus. I don't know his last name. He had been block leader in block 19. Then he was made block clerk in the clerk's office and the accused number 14 was sent as blockeldest to block 19 in order to relieve that gentleman.

Q When you speak of the accused 14 are you referring to Mr. Gieselman?

A Yes, Mr. Gieselman.

Q Did you continue your acquaintance with Mr. Gieselman after he became blockeldest of block 19?

A Yes. As a result of the increasing homosexuality in the camp the circles inside the camp put in complaints to the leadership of the camp and complained that young boys were constantly with other prisoners in block 19 in wing B, and thereupon the camp administration decided to put all these juveniles under eighteen years old in one particular block in order to avoid any more of these misdemeanors.

PROSECUTION: Let the record show that the accused Pens has returned to the dock.

Q When did this occur, that is, the establishment of block 19 as the living quarters for these young prisoners?

A That was around July or August, 1944. Block A was erected as a special block for juveniles and block B of the same block continued as quarters for grownups.

PRESIDENT: Let us clarify that. Is he referring to a block or wing now--block A and B?

INTERPRETER: Wing A and B.

A (continuing) There was a certain Whitman in wing A, and he took care of these juveniles. Later on, as the juveniles increased, they also used wing B as quarters for the juveniles, and then the

accused number 14 was transferred from wing A to wing B in order to take care of the juveniles there and have charge of the whole block; and I must say that it was a very hard task for a block leader there to maintain order among these juveniles. For the most part they were already homosexual and going to the dogs.

Q Will you describe the general physical condition of these prisoners that lived in block 19, these juveniles?

A Most of the juveniles were pretty well rundown because of the bad food situation in the camp. When I was there it was bad, and whenever food was given out there were always commotions and fights between the juveniles, because each one wanted to get there first and wanted to get the most for himself. They quarreled among themselves, and the block leader was often forced to intervene with some sharp measure or other in order to bring about order again.

Q Mr. Diederich, can you give us any idea of how often you would visit Mr. Gieselman's block after you had left it yourself?

A I had to visit this block very often because the hygienic conditions were very bad and the water connections were bad and we didn't have enough material to keep all of this in good running order. We were forced to go over there very often, perhaps every other day, in order to make repairs on water faucets and to repair the latrines and things of that nature in order to try to keep up the hygienic conditions so that sickness wouldn't set in; and on these occasions I always had to do with this gentleman, because he always had to show me what was wrong on these installations.

Q During the time that you were visiting the block to carry out your duties as a plumber did you h ave an opportunity to observe how Mr. Gieselman treated the prisoners who lived in this block?

A Yes. Yes, because in this block there were two shifts, a day shift and a night shift. Therefore, the opportunity offered itself that there were always prisoners in this block.

Q Now, will you describe for the court just what you saw with regard to Gieselman's treatment of prisoners during the time that you visited there?

A As I already said before, Gieselman often had to take steps in order to maintain order, and therefore once in a while there would be a box on the ear; but I never saw him actually mistreat anyone or use any object, and I often said to him, "Stop and think for a moment. They are juveniles. You can't treat them as if they were grown up." I must say that I belonged to a group of forty political prisoners, and we decided among ourselves that we would do whatever we could in the camp to avoid any beatings and things of that nature. It wasn't only a battle we were waging against prisoners beating other prisoners, but also against SS beating prisoners.

Q Now, Mr. Diederich, you stated that Gieselman gave boxes on the ears. Will you just explain to the court how those were administered?

A I was there various times when the food was given out. The people were congregated around the kettle so thickly that there wasn't any more room. Nobody could move. Everybody wanted to get at the kettle. And then he would have to interfere in order to maintain order, and once in a while someone would get a box on the ear.

Q Now, you stated that you never saw him mistreat prisoners. What do you mean when you say you never saw him mistreat anyone?

A I don't consider a box on the ear mistreatment. When I say mistreatment I understand by that that you hit somebody with an object. There wasn't anything else you could do with these juveniles. There wasn't anything you could do in order to maintain order. And in regard to trying to maintain hygienic conditions, there were

various ones of these juveniles who refused to wash themselves, and you had to drive them to the washroom in order to make them wash themselves, because vermin and lice would get the upper hand and everybody would be infected.

Q Now, Mr. Diederich, during the time that you were in the block making repairs in the latrines and the washrooms, did you ever on any occasion observe any prisoners having to sleep or live in the washroom or latrine?

A No. I can tell you about one particular case. There was a prisoner, a juvenile up to about eighteen years old. He was completely gone to the dogs as far as his moral well being is concerned and his physical well being. He urinated in his bed and left excrements in the bed, and his comrades objected to his presence in the dormitory at all, and I talked with Karl Schrade and tried to get him to get this prisoner into the convalescent ward and eventually into the hospital, and he turned it down flatly. He said it couldn't be unless the doctor actually ordered it, and there wasn't anything else to do but to segregate this particular individual, and so they set up stools in the washroom and on top of these stools they build a complete bed just like a bed everyone else had.

Q You spoke of a Karl Schrade. Do you recall observing what color triangle that particular man wore?

A As far as I know he wore a green triangle.

Q Do you know what Mr. Schrade's nationality was?

A German.

Q Mr. Diederich, do you speak any other languages other than German?

A Yes. I speak French and Spanish.

Q During the time that you were acquainted with Mr. Gieselman

did you ever have any occasion to use your knowledge of languages on his behalf?

A Yes. I once played the interpreter between juvenile French inmates who were at the wing of this deceased Whitman, and they wanted to get over into the wing where the accused number 14 here had charge of.

Q You speak of a man Whitman. Do you know what position Whitman held in the camp at the time that he was living in block 19?

A Whitman was chief capo in the Messerschmitt factory and in the stone quarry, and as far as I knew him he was more or less correct in his behavior. If things came to a head then he could intervene in juvenile matters.

Q About how many men would you estimate were living in block 19 during the time that Mr. Gieselman was blockeldest and you had an opportunity to visit him?

A I estimate around five hundred or six hundred juveniles.

Q Will you explain to the court the general conditions of that particular block in comparison with other blocks in the camp?

A It is hard to draw a comparison there. The juveniles were harder to keep in hand, harder to manage than the adults. And then it was difficult because there were Poles, Russians, Czechs, Germans; and then, above all, the blockeldest only knew German and didn't know the other languages. That was difficult, and for that reason the biggest arguments always occurred.

Q During the time that you were in Flossenburg, Mr. Diederich, did you ever come in contact with a man by the name of Lipinski?

A Yes.

Q Will you explain to the court just how you came to know Mr. Lipinski in Flossenburg?

A Lipinski arrived in a transport from Grossrosen.

Q When was that?

A Beginning of the year; end of January, beginning of February

Q Of what year?

A 1945.

Q Upon Mr. Lipinski's arriving in the camp, did you observe what he did in the camp?

A After Lipinski had arrived in the camp the word spread around "there comes a rather prominent person from Grossrosen", and it was said that he would receive some inside camp function. The camp capo was being released for some other job or else he was going to the army, and Lipinski was to take his place.

Q Do you recall when Lipinski became camp capo?

A Lipinski was about three weeks in the camp before he got this job.

Q What duties did you observe Mr. Lipinski perform as camp capo?

A Lipinski had to take care of all internal matters in the camp which had anything to do with the camp administration. He did that through the prisoners who were assigned to him, that is, prisoners who weren't put on definite work details.

Q Will you explain to the court as best you can just how the prisoners were selected to work on the details that were in charge of Mr. Lipinski?

PROSECUTION: That is objected to unless the groundwork is laid for the question to show that the witness had the proper knowledge of these facts to be able to testify.

MR. McKAY: I withdraw the question at this time.

Q Mr. Diederich, did you ever observe Mr. Lipinski falling out in the mornings with his details to go to work?

A Due to the fact that I had to lay pipes and have ditches dug for these water connections I would often have to go to Lipinski and get men from him.

Q Mr. Diederich, what I want to know is this: In the mornings when Lipinski would fall out with his detail, did you observe him fall out with his detail in the morning?

A Yes.

This is the way it was: after the work details which belonged to the administration, stone quarry, and Messerschmitt factory had moved off to work there was always a remainder of prisoners there, and these prisoners were distributed by Lipinski to the various foremen who would take their men and do various tasks around the camp.

Q How many details did you observe Mr. Lipinski have in the camp during the time he was camp capo?

A That all depended on the particular days--how many work details were required for each particular day. I had, for example, one day two or three work details from him. They had to carry potatoes; and there were other details--people who cleaned up the yard, people who carried coal, people who did away with the bodies, and various work details like that.

Q And where did these details work in relation to the prison compound itself?

A They worked inside the camp and also outside the protective custody camp in the terrain outside there where the SS had their quarters.

Q During the time that you were in Flossenburg, Mr. Diederich, was there ever a section of the prison compound enclosure which was used as a quarantine area?

A Yes. It consisted of blocks 20, 21, 22, and 23.

Q During the time that you were acquainted with Mr. Lipinski as camp capo, did you ever observe him having any duties in relation to this quarantine area and the prisoners who were kept there?

A Yes. He did the duties there for me, in fact, but with another capo had to do with prisoners. He had to do some repairs on a water connection.

Q Mr. Diederich, did you observe at what time of day the roll calls were held for the prisoners who were being retained in the quarantine area?

A As far as I know, when I was there it was between four and five o'clock in the afternoon.

Q When was the roll call held for the other prisoners in the camp outside of the quarantine area?

A That was between 5:30 and 6; sometimes even up to 7 o'clock.

Q Did you ever have occasion to observe Mr. Lipinski present during the roll call of the prisoners who were being retained in the quarantine area?

A No, I didn't see that.

Q Did you observe him being present at camp when the details which he had charge of would return to the camp in the evening?

A He always came in with the last work detail from the outside. He had all these work details under him, and he had to round them all up before they would march in at nights.

Q Can you give the court any idea of what time of day that would usually occur?

Q At 5:30 was the end of work, and it would always be around a quarter of six before he would come back to the camp.

Q During the time that you observed Mr. Lipinski performing his duties as camp capo, did you have an opportunity to observe how Mr. Lipinski treated the prisoners who worked on the details under him?

A I cannot say that I ever saw Lipinski hit anyone.

Q You stated that there were various other capos under Lipinski. Will you explain to the court just what you observed Mr. Lipinski do with regard to the details that worked under him?

A What am I supposed to have seen? I can't always be there when the people were working. I can only tell you about the work details which I got from him.

Q I want you to explain to the court just what Mr. Lipinski's relation was to these other details which had capos in charge of him.

A I cannot understand what you mean there.

Q Well, Mr. Diederich, normally a capo is in charge of a single

detail?

A Yes.

Q Was that the situation with regard to Mr. Lipinski as camp capo or was there something else? Did he have more supervision over prisoners than the ordinary capo who had charge of merely one detail?

PROSECUTION: Objected to as leading.

PRESIDENT: The objection is overruled. It is apparent to the court that the defense counsel is having some difficulty with this particular witness. Will you read the original question?

(Whereupon the question was read by the reporter, as follows:)

"Was that the situation with regard to Mr. Lipinski as camp capo or was there something else? Did he have more supervision over prisoners than the ordinary capo who had charge of merely one detail?"

A Yes, he had more responsibility; because he had to be responsible for all the capos who were under him. But he couldn't stay with each particular work detail all the time because he also had to check up on all of the work details and he couldn't find out what was going on in one work detail which he had left and had gone ahead to check another detail.

PRESIDENT: Caution the witness about not going too much into detail.

THE WITNESS: I don't believe I am going into detail.

PRESIDENT: The court feels that you are. Now you just answer the question. You answer the question of the defense counsel and do not go into too much detail.

THE WITNESS: I understand.

QUESTIONS BY MR. McKAY:

Q Mr. Diederich, did you ever have any occasion to be present when Mr. Lipinski would find prisoners under him on his various details that were unable to work?

A The answer is No.

PROSECUTION: May it please the court, that is objected to as calling for a conclusion on the part of the witness.

(Discussion off the record.)

PROSECUTION: I withdraw the objection.

QUESTIONS BY MR. McKAY:

Q Mr. Diederich, I want you to explain to the court just the nature of your personal association with Mr. Lipinski during the time that you were in Flossenburg.

A Didn't have any. Only when I had a definite work order and had to get a workman from him.

Q Did you ever observe Mr. Lipinski performing any duties as camp capo with regard to the food distribution in the camp?

A No.

Q Did you observe him working around the kitchens as camp capo?

A Yes. It was also his duty as camp capo at the noon meal when the food was brought out of the kitchen to check up and see that the kettles all arrived at the various sections they were destined for.

Q Will you describe what would occur, briefly, at the time that these food distributions were being made among the various prisoners when they came to get their kettles at the kitchen?

A The cooks in the kitchen would put the kettles in lines according to blocks, and then the prisoners who were sent to transport the food away would have to fall in this line, and it often happened that one kettle would disappear from one row to the other, because everyone was trying to get the most food for his block.

Q Did you ever see Mr. Lipinski have to take any action to prevent that sort of thing?

PROSECUTION: Objected to as leading.

PRESIDENT: The objection is sustained.

Q Well, just what did you observe Mr. Lipinski do at those times?

A He had to see to it that the missing kettle would get back into the row where it belonged, because he was responsible for the whole works there.

Q Do you think that you could recognize Mr. Lipinski if you saw him again?

A Yes.

Q Will you look over the men seated behind me and see if you can recognize the man you knew of as Lipinski?

A (The witness indicates.)

MR. McKAY: Let the record show that the witness has identified the accused wearing 23 as Lipinski.

Q You stated that you never saw Lipinski beat prisoners. Did you ever see him take any other kind of action against prisoners?

PROSECUTION: If it please the court, I don't recall any such statement by the witness.

PRESIDENT: Objection overruled.

MR. McKAY: Will you repeat the question?

(Whereupon the reporter read the question, as follows:)

"You stated that you never saw Lipinski beat prisoners. Did you ever see him take any other kind of action against prisoners?"

A No, I didn't have any such close connections with Lipinski in the camp.

Q Do you know how long that Mr. Lipinski continued to act as camp capo in Flossenburg?

A That could only have been from March until the end when the camp broke down.

Q When did you yourself leave Flossenburg, Mr. Diederich?

A 15th of April, 1945.

Q And how did you leave Flossenburg?

A I escaped.

Q Were you ever a member of the camp police, Mr. Diederich?

A Yes, eight days.

Q What duties did you perform as camp policeman?

A I didn't have any duties. I continued my handwork; did one job after another until I escaped.

MR. McKAY: This witness is being called on behalf of the accused represented by Mr. Engelhorn.

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place.)

(Whereupon the court reconvened at 1135 hours.)

PRESIDENT: The court will come to order. Mr. Engelhorn.

DIRECT EXAMINATION (continued)

QUESTIONS BY DR. ENGELHORN:

Q Mr. Diederich, during your stay at Flossenburg did you learn to know a man called Friedrich Becker?

A What Becker are you talking about, an SS man or a prisoner?

Q An SS man.

A Yes.

Q Would you recognize him if you saw him again today?

A Yes.

Q Look in the dock and see if he is there with the other prisoners.

A Yes; the third in the bottom row.

Q Please point him out.

(The defendant wearing placard No. 1 rises in the dock.)

Q Did you see his number?

A Yes.

Q What number?

A Number 1.

DR. ENGELHORN: Let the record indicate that the witness has properly identified No. 1 as Friedrich Becker.

Q On what occasion did you learn to know Becker in Flossenburg?

A I often had contact with him because I had to go and get prisoners from him for my work.

Q What position did the accused Becker then hold in the camp?

A In the first period of time when I learned to know him he was clerk of the administration in department 3 of the camp.

Q And what position did he have when you went and got workers from him?

A He was leader of the work commitment office.

Q Did you often have contact with him.

A Yes.

Q Can you tell us anything about the general nature of the duties which Mr. Becker had to perform there?

A He had to introduce the prisoners to the doctor to see whether they were suited for the work.

Q Did you see how Mr. Becker treated the prisoners?

A How was he supposed to have treated them? He picked them out, stood them over there and introduced them to the doctor.

Q Can you give us a general idea about how Mr. Becker behaved with the prisoners in general?

A As far as I could find out during the time when I knew Becker he was always decent to the prisoners, and that was a rarity among the SS.

Q Did you have any personal experiences with him in regard to his treatment of you?

A In that regard I had nothing to do with him whatsoever.

Q What was the general reputation of the accused Becker in the camp with the prisoners?

A The reputation of SS man Becker in the camp was very good, above all among us political prisoners.

Q Did you know anything about the fact whether or not the camp Flossenburg would have to give work details to the outside?

A Yes.

Q Can you tell the court anything about how people went about doing that when such work details had to be given out to the outside?

PROSECUTION: That is objected to, if it please the court, unless the qualifications of this prisoner are shown as to the mechanics and the administrative procedure concerning the selection of these prisoners.

PRESIDENT: Objection sustained.

Q Mr. Diederich, did you have any occasion to be present when they were forming such work details to be sent to the outside of the camp?

A Yes.

Q And what did you see on these occasions?

A In order to answer this question I will have to make an explanation.

Q Please.

A If it is permitted, yes.

PRESIDENT: Proceed, but make it short.

A (continuing) As I already said there were forty of us political prisoners. We formed a union among ourselves, and we had undertaken the task of checking up on the whole camp, and for that reason we had a great interest when work details were sent to the outside, and we observed everything that went on. It was like this: Every evening there would be about ten of us together and we would talk about the camp situation and various ones would be commissioned with the task of checking up on particular matters. For instance, if word went about that particular details were going to be sent to the outside, then they would be sent to observe this. The main object of our union was to keep all of the political prisoners, all of us, together and not to lose any of us, and for that reason this transport caused our great attention.

Q Explain what you saw there.

A We were put in the picture about it all by the radio station there. The operator told us about it, and before the camp administration ever got any piece of news we already had this news in our hands, and so it was that we could take matters into our own hands and do preliminary work and see to it that none of our comrades would get into these positions; and for that reason we put a guard on Becker. He checked up on Becker, and we were able to find out exactly how things were done there.

Q Tell us how they went about it.

A. The prisoners who were not employed were called together in the roll call square, and there they were equipped without clothing, and then Becker picked out people. He didn't find enough, so he asked for volunteers. He asked to get more people, and I heard on one or two occasions an argument between Mr. Becker and the adjutant, First lieutenant of the SS Baumgartner, and Baumgartner scolded Becker and said that he was trying to spare certain prisoners. And as I remember Becker answered him on such occasion, "It is not up to me; it is up to the doctor to determine whether these prisoners are capable of doing this work. And then I saw that these people, the adjutant Baumgartner, and the commander of the camp, Max Koegel, themselves segregated prisoners for this purpose.

Q What do you mean to say by that?

A And they also took some prisoners whom the doctor himself had turned down. On one occasion we found out that six or eight hundred men were going to be transported away. We got news of this. I can't be sure whether it was to Offenbach--whether the transport was going to Offenbach or Hersbruck. They couldn't get enough men for this, and therefore the commandant of the camp ordered that they pick their men from another camp and send them off to this transport.

Q You say that the commandant, Koegel, and Baumgartner themselves picked out and segregated prisoners, and that the physician did not approve their choice. What do you mean by that?

A If a prisoner was standing in front of him fully clothed you couldn't tell what was wrong with the prisoner. Perhaps one of them would have a wound on his arm or on his leg or they had some other kind of physical ailment, and after that they would be sent back to the doctor and after that the doctor would turn them down.

Q When you say turned down you mean that they would not go to the transport?

A That's right; they wouldn't go to the transport.

Q Can you tell us anything about the relationship between Becker and the adjutant, Baumgartner?

A The adjutant, Baumgartner, had a reputation in the whole camp among the prisoners and the SS as a sadist, and I don't believe that anyone at all, whether he was a prisoner or whether he was an SS, could get along with this adjutant in any respect.

Q Do you know whether Baumgartner was a superior of Becker?

A According to his rank, yes.

Q Did you make any personal observations as to how Baumgartner treated Becker?

A That was on the occasion when commandant Koegel and Baumgartner picked out people themselves, and then use was made of this word "Washrag", which is a bad name to call a soldier. It didn't matter to Baumgartner who was there. He didn't care what he said. He used all kinds of words, whether they were prisoners he was talking to or whether he was talking to SS men.

Q Did you observe or know anything about a transport coming to Flossenburg from the outside, from Cologne or some other place?

A Yes.

Q When?

A It was 1944, in September.

Q What about this transport?

A There were about forty men in this transport. They had already been in one camp, and they were supposed to have been released. They were arrested again and brought to Flossenburg.

Q What happened to these people?

A The same thing happened to them as happened to everyone else.

For a few days they didn't have any work to do. Then an epidemic broke out among them and they were segregated.

Q When you say they were segregated you mean because of this epidemic?

A Yes.

Q How was it when such people were segregated? Were they transferred to a particular block?

A Yes, we had four isolation blocks--21, 22, 22, and 23.

Q In what block did these people come, then?

A They were quartered in block 23.

Q Who had the supervision over such segregation?

A That was up to the hospital.

Q Who made the final decision whether or not anyone could leave this segregation or not?

A The doctor.

Q Did it happen that any of the prisoners in this transport were asked for by another part of the camp?

A Yes. I myself asked for some.

Q What was the reason for your asking for them?

A The case involved was a handworker, a craftsman, whom I needed.

Q And to whom did you direct your appeal?

A I appealed to Recker, and he told me to ask the hospital, the doctor, about it.

Q Did you get your man?

A Yes, after several days.

Q Can you tell us whether a transport left Flossenburg and went to Bergen-Belsen?

A Yes.

Q What do you know about that, Mr. Diederich?

A Three transports went to Bergen-Belsen in 1944, and the last one in March 1945.

Q What do you know about these transports?

A I can't give you any information about the first two transports, but I can tell you about the last transport because my comrades checked up on this transport for me, and two Spaniards were supposed to have been sent with this transport who had fought on the communist side in Spain. They were two native Spaniards. I was interested in this matter and I tried to get them free.

Q To whom did you appeal then?

A I appealed to the capo and the clerk of the hospital.

Q What were their names?

A I only knew his first name, Kurt, and I can't think of his family name; and the other one whom I already named. I can't think of his name. It is the last capo who had charge of the hospital. I just can't think of the name.

Q Perhaps the name will occur to you later. I will continue meanwhile. What did this capo say to you?

A The capo referred me to the clerk. The clerk had the list in his possession. I went over to him and asked him to leave the two Spaniards there. My final result was that one of them stayed and the other one had to go with the transport.

Q Did you have a conversation with this capo of the hospital and this clerk of the hospital in regard to the transport?

A Yes.

Q What was the subject of the conversation?

A They comforted me with the thought that this big Spaniard who had to go along with the transport wouldn't be harmed in any way-- that he was just going for convalescent purposes in a convalescent camp and would come back again within half a year.

Q When this transport marched off and left the camp in the direction of Bergen-Belsen, which of the camp authorities was present?

A The adjutant, the commandant, and the roll call leader.

Q Do you know whether or not the accused Friedrich Becker had anything to do with this transport?

A No.

Q Do you mean by that answer that he didn't have anything to do with it?

A That had nothing to do with the work commitment office. That was entirely up to the hospital and the doctor.

Q Mr. Diederich, can you tell us anything about how the accused Friedrich Becker acted when people would bring personal wishes to him, for example, if a prisoner would come to him with a particular wish in regard to the kind of work he wanted assigned to him?

A Yes. Among the work details that I had in the administration there I had one commando, and in that commando there was a Pole who was an electrician, and his father arrived in the camp with the transport from Warsaw, and he asked me whether he couldn't arrange to have his father brought inside a building to do work inside a building, and I referred him to Friedrich Becker, and after a few days I was able to find out that this man was employed giving out soap in the laundry, in the division laundry.

Q What kind of a position was that in the laundry?

A He worked inside the building. He wasn't exposed to the weather at all, which was rather bad in Flossenburg then, and he could muddle through there.

Q Do you know of any other similar incidents?

A I sent a number of people to Becker in similar matters, but I can't remember them all. There are too many of them.

Q Do you remember that a transport of Jews arrived?

A A few of them , Jew transports, a few of them arrived. There were a few that arrived just before the evacuation and there were some that arrived earlier. I can remember some at the end of 1944.

Q Did anything happen then?

A Whether anything happened? Well, there were a number of people on this transport who weren't capable of working, and they brought children with them--children between twelve to sixteen years old, and they were spread about among us in the shoemaker shop, the tailor shop, and the smallest one of them was employed as an errand boy in the clerk office.

Q Who saw to it that these boys got these positions?

A The leader of the work commitment office, Becker, saw to all that--took care of all that.

Q Where were the parents of these children?

A They had also arrived in this transport--fathers, brothers--and the brothers, they were all there.

Q Were these relatives of these people used in the same work?

PROSECUTION: Objected to as leading.

PRESIDENT: Objection sustained.

Q Where were the parents of these children?

A They were split up according to their craft which they knew. They were sent to the Messerschmitt factory--most all of them were employed in the Messerschmitt factory. If I am not mistaken that was a transport which came from the Heinkel airplane factory.

DR. ENGELHORN: No more questions.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Whereupon the court recessed at 1200 hours.)

Ta 566 10-31-46
pls/1

Camp Dachau, Germany
31 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Col. Denson and Mr. Pinter who are absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Matzke, Olschewski, Oswalt, Jakubith and Pens, who are ill and whose interests are being taken care of by counsel.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of direct examination.

MR. BERKOWITZ: If it please the court, I have at this time a translation of page 47 of Prosecution's Exhibit 79 for identification. I offer that as Prosecution's Exhibit 79 A and renew my offer of page 47 of the Exhibit, and offer them in evidence.

PRESIDENT: Any objections on the part of the defense to the introduction of Prosecution's Exhibit No. 79?

DR. WALKER: No.

PRESIDENT: Subject to objections on the part of any member of the court, Prosecution's Exhibit No. 79 will be received by the court in evidence.

(Whereupon the reporter marked in evidence, Prosecution's Exhibit No. 79 for identification.)

PRESIDENT: Any objection on the part of the Defense to the introduction of Prosecution's Exhibit No. 79A?

R. HALL: May I see it.

(whereupon the document, Prosecution's Exhibit No. 79A for identification, was handed to Mr. Hall.)

MR. HALL: No objection to Exhibit 79 A.

PRESIDENT: Subject to any objection on the part of any member of the court, the court will receive Prosecution's Exhibit 79A in evidence and give it such weight as the court sees fit. The court will take a few moments in which to look this over.

MR. BERKOWITZ: If the court wishes, I have two copies here. I will have sufficient copies made up for all members of the court.

PRESIDENT: Proceed, Dr. Engelhorn.

CLEMENS DIEDRICH, a witness for the defense, resumed the stand and testified further, through an interpreter, as follows:

DIRECT EXAMINATION (continued.

QUESTIONS BY DR. ENGELHORN:

Q Mr. Diedrich, this morning you said, on the occasion of the transport going to Bergen-Belsen, you spoke to a capo in the hospital?

A Yes.

Q You said that you were told that these people were going to a convalescent camp and they would come back in about six months?

A Yes.

Q This morning those names didn't occur to you. Do you know these names now?

A Yes.

Q What are these names?

A Kurt Goltz, and Karl Schrade.

Q Thank you.

PRESIDENT: Cross examination, Mr. Berkowitz.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Who refreshed your memory of these names during the midday recess?

A Nobody.

Q Did your friend come back after six months?

A No.

Q Did you ever see him again?

A No. In the meantime the camp had been dissolved and cleared.

Q Do you know what happened to him?

A No. According to the newspaper articles which I received, I found out that Bergen-Belsen was regarded as a concentration camp and I drew the conclusion he also died there.

Q Do you know anything about the transport selected for Auschwitz?

A I heard about that but it wasn't my duty then to check up on that matter, that was the duty of another comrade.

Q The only interest you had in transports was to keep certain of your friends out of the transport, is that correct?

A Yes.

Q You have testified about Lipinski. Did you have an opportunity to see Lipinski's treatment of prisoners in Block 20?

A I didn't see how he treated people in Block 20.

Q Did you see how Lipinski treated prisoners out on the work details with him?

(Diedrich-Direct)

A I didn't see that, I saw hat he checked up on the work details.

Q What kind of headgear did Lipinski wear?

A A big blue cap with a visor.

Q Was there anybody else in the camp who wore that kind of a cap?

A No, not that kind of a cap.

Q Where did you live before Block 19 was made a youth block?

A I myself was in Block 19.

Q Where did Gieselman live before Block 19 was made a youth block?

A In Block 1.

Q You stated that sharp measures were necessary at times in order to control the inmates of Block 19. What do you call sharp measures?

A By that I meant to say you had to intervene with these juveniles who were, you might say, undisciplined.

Q What do you call sharp measures?

A To shout at them, to address them roughly, to reprimand them.

Q What sharp measures did Gieselman take?

A Gieselman had good lungs. He could shout at them and set them straight, and once in a while there would be a box on the ear given out.

Q Is that as far as he would go?

A I didn't see any other measures that he took.

Q When he took measures of that kind you felt it necessary to state, you said you did, this morning, you felt it necessary to tell him to stop and think for a moment, "You can't treat them like grownups?"

(Diedrich-Cross)

A Yes, when he would give a box on the ear out once in a while.

Q Didn't you state this morning you didn't consider a box on the ear as mistreatment?

A Yes, and I don't consider a sharp interference as mistreatment.

Q Did you consider the box on the ears a sufficient cause to tell Gieselman to stop and think?

A For the reason that I myself, as a human being, wouldn't want to be beaten. I assume that others wouldn't want to be beaten and you shouldn't beat others.

Q Did he beat others?

A He would give a box on the ear once in a while but I don't know how it was.

Q How much force did he use?

A Gieselman is a frail man and there couldn't have been much force behind it.

Q Yet you felt it incumbent upon yourself, as a humane person, to stop and tell him to think?

A Yes, of course, because we all stood on this point - that it was unworthy of a human being to strike another.

Q You were remonstrating against his weak slaps, weren't you?

A Yes.

Q How much time did you spend during the course of a week in Block 19?

A I'd be two or three times a week in the Block.

Q How much time did you spend on each occasion?

(Diedrich-Cross)

A That all depended on the amount of repairs we had to do there, half an hour, an hour, sometimes two hours.

Q Outside of that time that you spent there when you were making repairs in Block 19, you don't know how Gieselman treated the prisoners there, do you?

A No.

Q While you were in Block 19, when you visited there, to make repairs, did you on those occasions notice that part of the Block was separated from the rest of it by barbed wire partitions?

A No.

Q How often did you go in there?

MR. HALL: That's objected to as repetitious.

PRESIDENT: Objection sustained.

Q Did you have opportunity to see the whole Block?

A Yes.

Q Were you ever present at any conversations between Becker and Schmidt concerning thepeople to be selected for the transport?

MR. HALL: I object to that question as exceeding the scope of direct examination.

MR. BERKOWITZ: May I answer that, sir?

PRESIDENT: The court will give you permission to answer that. Make it concise.

MR. BERKOWITZ: If it please the court, the witness has stated these transports were selected by Becker and Schmidt.

PRESIDENT: Verify that, Mr. Berkowitz. The court will give you a moment to verify the matter.

MR. BERKOWITZ: May we have the record from this morning? If my recollection is correct, he said Becker

would select the men and then they would be turned over to Schmidt.

PRESIDENT: The objection of Mr. Hall is sustained.

Q Did you ever hear any conversation between Becker and the camp doctor concerning the selection of prisoners for the transport?

A No.

Q Who was the doctor who selected the transports?

A There were various doctors who did that. I know there was a captain of the SS there, a doctor. I don't know his name.

Q Who else?

A Dr. Schmidt was also there as doctor. Otherwise I didn't see anyone else.

Q Which doctor usually took part in the selection of the transports?

A I can't give you a general answer there because I didn't observe each particular transport.

Q How many transports did you observe?

A I can't give you an exact answer there. I don't like to restrict myself to a particular number.

Q Can you tell me what proportion of the transports you observed being selected?

A Perhaps 10%.

MR. BERKOWITZ: No more questions.

PRESIDENT: REdirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'KAY:

Q Mr. Diedrich, did you observe whether Mr. Lipinski always wore a cap while he was performing his duties as camp capo?

A Yes.

Q Did he always wear a cap?

A As far as I know, yes.

MR. MCKAY: Nothing further.

PRESIDENT: Further redirect?

MR. HALL: No, sir.

PRESIDENT: Recross?

MR. MAX OSNITZ: Nothing further.

PRESIDENT: Any questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Diedrich, what is your nationality?

A According to the law, a naturalized Spaniard. I was naturalized during the civil war in Spain.

Q You mean you were naturalized in Spain?

A Yes, but it was annulled by the present government.

Q What present government.

A The Franco regime.

Q What was your nationality previous to that?

A German.

Q You were a native born German?

A Yes, in Trier, on the Moselle River.

Q You mentioned about being a communist a while back. What is your political affiliation at the present time?

I have no party.

Q You gave a certain amount of evidence, Diedrich, about this union in Flossenburg. I understand it consisted of political prisoners and comrades, as you call them.

A Yes.

(Diedrich-Court)

Q Did that union or organization consist entirely of prisoners?

A Directly, yes.

Q What about indirectly, then?

A Indirectly we had contact with the SS.

Q Then I understand that indirectly certain SS members belonged to this Communistic union, is that right?

A Yes. There was one I know of, he was in the radio station.

Q Who was that?

A I don't know the name anymore. It was a young, slender man.

Q I understand that through the organization of this union that you were able to arrange for certain assignments of work details?

A Yes, we were distributed out in all of the various groups and work details. Our group declined any of its members to take prominent positions in the camp.

Q You did have indirect contact with certain members of the SS?

A Yes, they were those who formerly were leftists in the party.

Q You have testified that you, as one of the members of the union, shadowed Becker. Did you have any of your other workers shadow any of the other defendants here?

A I can't recall as I don't know exactly who all are here.

Q Well, look around. Look the prisoners over and see if any of your workers shadowed any of the others of them.

A Yes.

(Diedrich-Court)

Q Step right down there.

A Major Berger.

Q Anybody else? Just step right down here.

A I can see all right from here.

Q Never mind, do what I tell you.

A I don't see anymore.

Q Are you sure of that?

A There are people missing.

Q How do you know they are missing?

A Because I know the faces.

Q Who are they? Who are the people missing that you shadowed?

A The commandant of the camp, the adjutant. Pardon me, I forgot to mention one here, Mr. Blomberg.

Q You'd better look around and see if there are any of the rest of them.

A Nobody else is here.

Q We'll come back to that in a moment. During the time the Assistant Prosecutor interrogated you, you gave a certain answer as to the reason that you cautioned Gieselman. In other words, you cautioned him to be more humane in his treatment of these men. Personally I wasn't satisfied with your answer. Have you got any other statement to make as to just why you cautioned Gieselman to be more humane in his treatment of those boys?

A We in this group decided we would warn everybody who hit anyone else, whether he hit them with a stick or his hand it didn't matter, we wanted to have a good concord among all the prisoners.

(Diedrich-Court)

Q There was a reason for your cautioning him on that particular occasion, wasn't there?

A Yes, because he hit someone with his hands. That was enough for us.

Q Did he hit him with his open hand or with his closed hand?

A With his open hand, never with his fist.

Q Did you ever see him knock a boy off his feet by hitting him?

A No, I didn't see that.

Q You mentioned Karl Schrade. What was the reputation of Schrade in the camp?

A Schrade didn't havea bad reputation.

Q Was he a member of the union?

A No. There were several other groups in the camp but he didn't belong to the group.

Q Do you wish to amplify that, that Schrade didn't have a bad reputation?

A For instance, if I needed something from him, I could go and get it at any time.

Q Where did you generally find Schrade?

A In the hospital.

Q You have testified tha Gieselman was block eldest of Block 19. Just when did he take that detail over?

A After the Czech, Milus Cursooras had been sent as a clerk into the prisoner clerk's office.

Q When was that?

A In the middle of the year '44.

Q Just when did Lipinski become camp capo?

A In March, 1945.

(Diedrich-Court)

Q You mentioned that you escaped. Where did you escape from?

A I was with the camp police eight or ten days.

Q Did you escape right from Flossenburg or did you escape from one of these evacuation transports?

A Out of Camp Flossenburg itself.

Q Did you ever get a box on the ears when you were in Flossenburg?

A Yes, I sure did a few times.

Q How did you feel about it at this time? Did you think it was mistreatment or what? Right at the time you got it?

A I considered it the greatest insult that had ever happened to me.

Q Then it was mistreatment, was it not?

A No, it was not a mistreatment.

Q What would you call it?

A A block clerk in Block 13 mistreated me once, he kicked in three ribs on the right side of my body. I call that a mistreatment.

Q When you thought it necessary to caution Gieselman about his treatment of the boys, wasn't that mistreatment also at that time?

A No, that was not mistreatment. I don't consider a box on the ear mistreatment.

Q Not even when you got it yourself?

A No, I never considered that mistreatment, not a box on the ear.

(Diedrich-Court)

Q You have testified that some of the agents of this union in camp shadowed Berger. Wha did they find out?

A In what regard?

A Well, in the treatment of inmates.

A I saw Berger three or four times in the camp, as far as I can remember, and he was walking alone when I saw him.

Q What about these reports of the agents that went out from your union? What kind of reports did they bring back?

A I myself shadowed Berger.

Q What did you find out about his treatment of prisoners?

A The former Major Berger scarcely had contact with the prisooners at all and he had been picked out as the man who would be camp leader after Fritzch left.

Q Who picked him out?

A That came from the commandant.

Q Did you find anything else out about Berger when you shadowed him?

A I learned to know Mr. Berger at my work in the house where he lived after he arrived in Flossenburg.

Q Did you ever see him mistreat prisoners in any way?

A No.

Q What about Blomberg? What did your union find out about Blomberg?

A I must say openly and honestly that Mr. Blomberg was considered belonging to the group to which Baumgartner and Max Koegel belonged.

(Diedrich-Court)

Q What do you mean by that?

A He was considered part of the worst people in camp.

Q Where did you get that information?

A I got that from a fellow comrade of mine who knew about these matters. The name of this comrade was Hans Miller.

Q Where is he at the present time?

A In Augsburg. He belonged to our group.

Q Did you ever have any definite information that Blomberg had ever mistreated any prisoners, definitely?

A He didn't have any information that he actually mistreated prisoners but we did have have information he was present at executions.

PRESIDENT: Any questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q In your testimony concerning Lipinski you stated that he had charge of several commandos. One of these commandos did away with bodies. What did you mean by that?

A They carried away the dead people, the bodies, out of the hospital where theydied and out of the block where they died.

Q Were there many people died in the blocks?

A Oh, yes, there were various ones who died in the blocks.

Q Which block was that?

A I can't tell you that exactly. I can't pin down a particular block.

(Diedrich-Court)

Q Was it in the quarantine block or throughout the camp?

A The quarantine blocks were the worst ones.

Q You also stated that when the camp doctor was making the examination, the physical examination of these men who were to go on the transport, they had their clothes on and he knew of wounds ontheir arms and wounds on their legs. Do you recall that?

A That was misunderstood.

Q Further than that you stated that the camp doctor did not recommend these men for the transport but the adjutant, the camp commander ordered them to go.

A That isn't the way I said it.

Q Well, let's have it your way.

A That's a misunderstanding. The way I said it was this - Adjutant Koegel, Commandant Koegel and Adjutant Baumgartner picked out people whom Berger had left behind and didn't want to send, because they couldn't see what kind of injuries these people had,because the people were dressed, they had their clothes on. After the doctor had examined them he had ordered them to take off their clothes and examined them, it wasn't until then that they could see these people had these wounds and then they were sent back.

Q What caused these wounds?

A Undernourishment. Most all of them because of undernourishment.

(Diedrich-Court)

Q Were they just thin or did they actually have wounds?

A No. They were think, emaciated, and they also had actual wounds on the arms, on the legs.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SKIELVIG:

Q When did Berger come to Flossenburg?

A As far as I know Berger arrived in the winter, between '44 and '45. I don't know whether it was in December or January, but it was one of those months, I believe.

Q Did you shadow him all that time?

A Yes, from the very first hour until the time when he left, shoved off, with this Jewish transport. Up until that time I shadowed him.

Q What was his position in camp?

A As I said, he was inside the camp two or three times. The rest of the time he had his work inside the administration.

Q What was his position in the administration.

A I don't know that so exactly but I know he had worked in Department 1 of the administration. We didn't have any access there.

Q You mean you couldn't find out what his job was in the administration even though you were shadowing him and you had all these other people watching?

A The general talk about camp was that Berger was the most humane officer in the whole SS.

Q How far did your contacts for these various shadowing details extend?

A My connection with the SS consisted of getting news from the wireless.

(Diedrich-Court)

Q Was that your only contact, you might say, with the SS, the radio?

A For me, yes.

Q Did any other members of your union have any contact in the offices of the administration, with the SS?

A Yes, they had their own connections but for security purposes each one only knew one connection.

Q Do you know offhand whether they had contact in Departments 1, 2 and 3?

A Yes, we had contacts in these various departments but we could never find out exactly who was in there because each person had a particular mission and would get his information from one particular source.

Q Yet your contacts weren't quite good enough to find out what Berger's position was.

A It was hard. We battled very hard to find out everything. You've got to imagine how it was in the camp. Try to imagine what I did trying to carry out such a thing when there was danger of the prisoners betraying us among themselves and also the fact we were guarded by the SS very severely.

Q What did you hear about this rumor to the effect that Berger was to take over Fritzch's job? What month of the year was that?

A That was the beginning of '45.

Q No further questions.

PRESIDENT: Any further questions by the members of the court?

QUESTIONS BY THE LAW MEMBER:

Q Just before lunch you were telling about two Spaniards who were separated, one went on the convoy and one stayed in the camp. When you came back after lunch you mentioned Karl (Diedrich-Court

Schrade and Kurt Goltz. What do you mean by that? I don't get the connection between the two.

A They were the two people with whom I negotiated in order to keep these two Spaniards in the camp.

Q Oh, I see. Did you know what the reputation of Kurt Goltz was in the camp?

A In the area in the camp where he was working in the hospital, Kurt Goltz was considered a quiet, peaceful man.

Q Do you know whether or not he was a homo sexual inmate?

A I don't know that.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q You said in the section where he worked he had a fair reputation. What was his reputation throughout the camp, in other parts?

A I can't say that because I didn't have much to do with them.

Q During the time you were in camp did you ever know of any beatings, prisoners beaten so badly that it caused death?

A Yes.

Q Was that a common occurrence?

A Common.

Q How often?

A That's hard to say. It was often enough.

Q Maybe once a day?

A In Barracks 22 it occurred very often.

Q Would you say it would be an average of one death a day?

A In Block 22 there were a number of dead people

every day but whether they were all beaten to death or whether they just died, that's hard to determine.

Q Was that the only block that had prisoners beaten to death?

A That was the most famous block of the camp.

Q Were prisoners beaten to death in other blocks?

A I don't know.

Q What action did your workers' union take about those matters?

A We fought it off as much as we could but there were times when we were helpless, powerless, and we couldn't take any action against them.

Q Who was the block eldest of that block?

A Martin Hum.

Q In your opinion, was he responsible for the beatings?

A Completely, absolutely, yes.

Q Did you ever find out what became of Baumgartner?

A Up to the present time I haven't heard anything.

Q Did you ever hear what became of Fritzch?

A I don't know that either. When I was in Weiden with the police, the word went around he had fallen in battle, died in battle.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q A little while ago in your interrogation, Mr. Diedrich, you said that Baumgartner and Koegel picked out people whom Berger had left behind, had put aside, and didn't

want to send them in. Do you remember that?

A Yes.

Q What do you mean when you say that Berger left them standing?

A By that I meant to say he considered these people too physically incompetent for this kind of work.

Q Do I understand you correctly, they appeared too weak to Berger? In other words, Berger considered them too weak?

A Yes.

PRESIDENT: Further redirect?

MR. O'CONNOR: If it please the court, I'd like to ask the witness some questions in behalf of the accused, Blomberg.

PRESIDENT: In the form of cross-examination?

MR. O'CONNOR: Yes.

REDIRECT EXAMINATION (continued)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Diedrich, were you personally acquainted with Blomberg in Flossenburg?

A Yes.

Q Were you ever in his office?

A Yes.

Q For what purpose?

A My son visited me there.

Q Were you called there by Mr. Blomberg or did you go there of your own accord?

A No. I was called there after the Commandant Koegel had ordered that my son was allowed to visit me. That was after Mr. Blomberg had already sent him away with the remark

it wasn't allowed for anyone to speak with a national criminal. Beside that, when my son and I were together in the office of Blomberg he again made use of this expression. He said it was a shame that a soldier was coming from the front to visit such a criminal. My son objected to this terminology and he wanted to throw him right out again. I ask you to interrogate my son in regard to this matter. He can tell you more about it.

Q Did Blomberg ever beat you?

A No, he didn't beat me.

Q Did he ever mistreat you?

A No, he didn't do that, either.

Q Then your only information about Blomberg's activities was your comrade Hans Miller who told you, is thatright?

A No, I observed him myself. I saw him going into the arrest building with this rifle in question. He would be accompanied either by Koegel or the adjutant.

Q Didn't you tell the court a little while ago you heard this from Hans Miller?

A No, I didn't say that. I would like to have it repeated, what I said. I would also like to remark I did some work in the crematorium and the Adjutant Baumgartn r came in with the rifl and Blomberg came with another officer who was a stranger in the camp. They came down to the crematorium. We had to leave the crematorium, and after that people were led down to the crematorium in order to be shot to death.

Q What is Hans Miller doing in Augsburg now, do you know?

A He's married there.

(Diedrich-redirect)

Q I mean, is he free or is he being held prisoner?

A No, he's at liberty.

Q That's all.

DR. WACKER: I'm asking a few questions in the name of the accused, Berger, No. 3.

MR. BERKOWITZ: May I ask whether the Doctor intends to ask this as cross or direct?

DR. WACKER: Cross.

MR. BERKOWITZ: If it please the court, I object to cross examination. This is a friendly witness towards Berger.

PRESIDENT: Dr. Wacker, the court understands this particular witness appeared in the first place as a defense witness for Berger.

DR. WACKER: I never mentioned the name, Berger. It wasn't until the court started asking questions that the name, Berger, came up. I'm not sure about the American procedure in court entirely, but I believe if I have not called a witness to the stand on behalf of one of my clients, then I have the right to take that witness into cross examination. I believe that has already been the case with various witnesses. The court has questioned the witness and names have appeared which haven't been previously mentioned and then the court brings the witness into cross examination.

PRESIDENT: The court understands, Dr. Wacker, you desire to cross examine with respect to Berger?

DR. WACKER: Yes.

MR. BERKOWITZ: May I answer that, if it please the court? The right to cross examine is extended to defense counsel where a witness appears adverse to a particular defendant. In this case, the witness has been a friendly

(Diedrich-)

witness and has testified for Berger and the right to cross examine should be the right of the Prosecution.

PRESIDENT: Anything further?

DR. WACKER: I don't consider it so important whether I take this particular witness into cross examination or direct examination, but I would like to have the question settled once and for all.

PRESIDENT: The position of the Assistant Prosecutor is overruled.

REDIRECT EXAMINATION (continued)

QUESTIONS BY DR. WACKER:

Q Mr. Diedrich, you said you had formed a group of people in the camp and each member of this organization had a particular person in the camp he was supposed to shadow or keep in touch with.

A Yes.

MR. BERKOWITZ: I move the answer be stricken on the grounds it is repetitious, and I also ask that the witness be instructed not to answer the question where an objection is made.

INTERPRETER: I told him that.

DR. WACKER: That wasn't any question at all. That was just a reference to the witness, so he would know what I am talking about.

PRESIDENT: Repeat the question.

(Whereupon the reporter read the last question)

PRESIDENT: Did you finish your question?

DR. WACKER: No.

PRESIDENT: Proceed, Dr. Wacker. The motion to strike is denied.

(Diedrich-redirec)

Q Did you mutually exchange reports of your findings? Did each member mutually talk to the other about what he found out?

A Yes, every evening.

Q What reports did you give to your group concerning Berger?

A The same reports that corresponded to my observations. My observations were that, as far as I could see, Berger acted in a manner above reproach in the camp and that only when he had to carry out a particular order, he was laboring under a pressure put on him from higher sources.

Q Did you have any reason at all to complain about Berger?

A No.

PRESIDENT: Any further redirect?

MR. HALL: Nothing further.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR. BURKOWITZ:

Q What were the things that Berger did under higher pressure that you reported to your group?

A I can think of one transport he had to take over with Jews on it and one day when I was repairing a wash basin in the office of the headquarters, I heard a talk going on between Baumgartner and Commandant Koegel and it was said then, "We won't use Berger for anything, he's too soft."

Q Too soft for what?

(Diedrich-Recross)

A He was too soft to use the methods of the concentration camp.

Q This was on a transport, wasn't it?

MR. HALL: I object to that question as being argumentative in form.

MR. BERKOWITZ: No arguments are in it. I'm merely trying to elicit information.

PRESIDENT: Objection overruled.

A I said that he had to take the transport away and there must have been some argument which took place before that happened, argument between Berger and either the adjutant or the commandant. That is why I assumed there must have been an argument because they made this remark that he was a softy, that he was too soft.

Q Did Berger take that transport?

A Yes.

Q When was that?

A That was around the end of March, the beginning of April. It was just before everything ended.

Q Do you know where that transport went to?

A I don't know where it went to but I do know that this transport was attacked by flyers in the little town of Floss.

Q When did you hear this conversation?

A That was on the day that the transport left.

Q What day did you escape from Flossenburg?

A On the 15th of April 1945.

Q Mr. Diedrich, this transport left Flossenburg on the 16th of April 1945.

PRESIDENT: Now just a minute. I want to caution

this witness when he is told not to answer he is not to answer. Any time you hold up your hand, interpreter, that means he must stop and not answer. That has happened two or three times. Mr. McKay?

MR. MC KAY: That question is objected to as being argumentative in that it assumes a fact that the prosecution has tried to present, and it is arguing the fact as the witness originally stated.

MR. BERKOWITZ: If it please the court, I haven't finished the question. Will you read the question?

(Whereupon the reporter read the question, as follows: "Mr. Diedrich, this transport left Flossenburg on the 16th of April 1945 -")

PRESIDENT: All right, complete your question.

Q And you state that you heard this conversation on the same day the transport left. Yet you say you escaped from Flossenburg on the 15th of April. What do you have to say with regard to that?

PRESIDENT: Go ahead, interpreter, but no answer.

MR. MC KAY: That question is based upon the assumption that the facts of the prosecution are true, and directly opposite to the fact that this witness just stated. If that isn't argumentative, I don't know argument.

MR. BERKOWITZ: May I answer that?

PRESIDENT: Objection of Mr. McKay is sustained.

MR. BERKOWITZ: No further questions.

PRESIDENT: The court will take a half hour's recess.

(Whereupon the court recessed at 1500 hours)

Ta 567-10/31-DHC-1
FLOSSENBURG

(Thereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court may the record show that all the members of the court are present, all members of the prosecution except Colonel Denson and Mr. Pinter who are absent on business of the prosecution, all members of the defense staff are present, all of the accused are present with the exception of Matzke, Olschowski, Oswalt, Jakubith and Penz, who are sick in the hospital and whose interests are being taken care of by counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

CLEMENS DIEDERICH, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL JACKSON:

Q Why were you placed in a concentration camp?

A Because I fought in the civil war in Spain on the Rights side and because I was a political functionary of the Communist Party.

Q Were you ever convicted of an offense in Germany outside of that?

A Not because of crime but of an offense?

Q Of an offense?

A Yes.

Q What was it?

A Political, and because of fraud too.

Q Will you just tell the nature of those offenses?

A I can't remember any details. I really cannot remember what that was. That was a long time ago, more than twenty years ago.

Q What was the length of the sentence?

A Length of the sentence — the highest penalty I ever got was one year and three months I think.

Q You stated one year and three months was the highest. What other sentences did you have then?

A I don't remember exactly. I would have to tell you lies if I wanted to make it exact.

QUESTIONS BY THE PRESIDENT:

Q Well, just how many times were you convicted of a criminal offense? The court is not referring to misdemeanors — criminal offense. Well, was it more than one time?

A Yes.

Q Five times?

A Yes.

Q Well, how many times was it approximately? Now keep in mind the court is referring to criminal offenses or felony.

A I was convicted because I offered resistance and because I injured a person and because of fraud and also because of theft.

Q Well, how many times all told now that you can remember?

A I don't know that exactly. I don't know how many times all in all. I don't know exactly. That was years and

years ago.

Q Well, you have mentioned at least five. Was it ten? Now, Mr. Diederich, your memory seemed very good in regard to other matters.

A Yes I have a good memory. I was just about to think it over. I can think of twelve times. Twelve times I was convicted.

Q And when you were in Flossenburg you wore a red triangle, is that right?

A Yes.

Q You mentioned among various other things you had injured a person. What did you mean by that?

A We were having a fight.

Q Well, was it murder or manslaughter or what?

A No, no, no.

Q Was it manslaughter?

A No, we were just picking each other up.

Q Assault and battery?

A Well, just an ordinary beating and I injured somebody.

Q So as near as you can recall right now you were convicted twelve times of felonies, is that correct?

A Yes. I can't think of anything else at this time.

PRESIDENT: Questions by other members of the court? Colonel Skielvig.

QUESTIONS BY LT. COL. SKIELVIG:

Q Diederich, you previously testified that you were in the crematory one day when you saw Blomberg come in. What

were you doing at the crematory?

A Fixing something, some repair work.

Q Describe just exactly what you saw on that particular occasion.

A We were working in the crematory repairing water pipes and the adjutant arrived with a rifle.

Q What time of day was this?

A In the afternoon around four or five o'clock, something like that. It wasn't long before we quit working. And then we had to leave the crematory to go back to camp and on the way back I met Blomberg and an SS officer whom I did not know.

Q Where did you meet Blomberg and an SS officer?

A In order to go down to the crematory you had to go around the camp around the wire fence and we met them on our way back.

Q How far from the crematory were you?

A Maybe a hundred meters.

Q You say Blomberg was carrying the rifle?

A No, the adjutant was carrying the rifle.

Q Did you previously state that Blomberg was carrying the rifle?

A No. No I didn't say that, no.

PRESIDENT: Court will take a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. Continuation, Colonel Skielvig.

(Diederich - Court)

QUESTIONS BY LT. COL. SKIELVIG (Continuing):

Q Mr. Diederich, you previously testified that in connection with this affair at the crematory you saw the victims on the way down to the crematory. Now, where did you see these victims?

A Also on the way. They were walking behind Blomberg and the other officer. They were escorted down there by guards.

Q How many victims were there?

A I don't remember exactly, three or four.

Q How far behind Blomberg and this other officer were they?

A Blomberg and the officer were walking about in the middle of the fence and the group was just coming around the corner. It could have been about 200 meters.

Q Now, when you are speaking of fence can you locate that spot in regard to the location of the brothel. In other words, how far was it from the brothel to the outside of the fence?

A The brothel is located about in the middle of the fence and the other half goes up this way and then it goes down again. (Indicating)

Q Mr. Diederich, will you go over to Prosecution's Exhibit No. 5, the map on the wall. Do you recognize what that diagram or chart portrays?

A Yes, yes.

Q Will you first point out the location of the crematory?

A (Indicating) That's the crematory.

LT. COL. SKIDMIG: Mr. Berkowitz, will you describe the point up there in question?

MR. BERKOWITZ: Let the record indicate that the witness indicated the block at the lower right-hand side of Prosecution's Exhibit No. 5 which block is marked "7" in black as the crematorium.

QUESTIONS BY LT. COL. SKIDMIG (Continuing):

Q All right, now show me the exact spot where you passed Blomberg and the victim on the way to the crematory.

A (Indicating) About right here in the middle of the fence.

MR. BERKOWITZ: Let the record show that the witness indicates a spot outside the line drawn around the protective custody camp and immediately below the block marked "Brothel" as the spot where he met Blomberg.

Now where did you go from there?

A (Indicating) This way, up here, and around the corner and up here and that's approximately the spot where I met the group.

Q When you say "group" do you mean the victims?

A Yes.

MR. BERKOWITZ: Let the record indicate that the witness has pointed to a line below the line indicating the wire about the protective custody camp and proceeding upward on Prosecution's Exhibit No. 5 above the block diagonally placed at the lower left-hand corner of that line marked "8" in black and continuing upward on the exhibit outside the line indicating the wire to a point to the left of the block marked No. 3 in black and "Prison" in red.

Q Now, Mr. Diederich, who was with you at the time that you saw these people? You mentioned that you left the crematory to return to your quarters. Who left with you?

A A certain Willi Kemper from Cologne-Muehlheim.

Q He was the only one with you at that time, is that right?

A Yes.

Q All right, where did you go from there? Continue on and show me what route you took back to your quarters.

A (Indicating) There is a yard, wood storage place, where they cut wood and when the group came up this way we turned into this yard. The group then passed us and we went up to this point, that is the clothing barracks, and then we went through this way and right up here left, that's where my work shop was.

Q Mr. Diederich, we have been referring to these people as victims. How do you know they were victims? Did you ever hear any shots fired or did you ever see those people again?

A No. In this wood-cutters' yard there was a capo, a Russian General by the name of Petro Petrovitch Pavlów. He spoke some German and he told me, "Well, those people won't come back." And furthermore they were wearing summer clothes, blue and white-striped clothes, and their hands were tied to the back with a piece of wire.

Q All right, now did I understand you to say you then went to your work shop?

A Yes, to my work shop. After this conversation I went back to my work shop.

LT. COL. SKIELVIG: Mr. Berkowitz, will you locate the work shop on there?

MR. BERKOWITZ: May the record show that the witness indicates as his work shop an unnumbered block immediately below the block marked No. 2 in black on Prosecution's Exhibit No. 5, said block being parallel to block No. 2.

Q All right now, Mr. Diederich —

A (Continuing) That was the so-called motor pool or motor vehicle control department.

Q Now, Mr. Diederich, you previously testified also that you saw Blomberg and Baumgartner go into the arrest building and at that time you saw Blomberg carrying a rifle. Now when did this take place?

A I didn't see that either. Whenever I saw somebody with a rifle it was the adjutant. It happened several times that I saw the adjutant in a situation like this. (Indicating) We observed him from here, in this yard over here. Wait a minute, I'm going to explain that in more detail. There is a window and from this window you could get a good look of the whole camp.

MR. BERKOWITZ: May the record indicate that the witness points to the upper side of the block previously pointed out as his work shop.

Q Now, Mr. Diederich, why could you get a good look over the whole camp from that particular site?

A (Indicating) Because that was located on a hill. It's higher than all these barracks over here.

Q All right now, Mr. Diederich, I'd like to know what date this took place, what year?

A I can't tell you the exact date. We couldn't take any notes down.

Q Well, what year was it? Can you give me the year?

A 1944.

Q Now, was it in the winter or in the fall?

A In the fall and in the winter, several times.

Q You saw it several times?

A Yes.

Q Was Blomberg always with Baumgartner?

A Well, they went together repeatedly. Blomberg sometimes would go alone to the arrest building and so would Baumgartner. That varied.

Q All right, now, actually how many times did you see this as near as you can estimate?

A Very often.

Q Well, when you say "very often" do you mean two, three, four, five, six times?

A No, no, much more often.

Q All right, now, from this building up there tell us just exactly what you would usually see in connection with their going to the arrest building, that is, when you saw Blomberg or Baumgartner carrying a rifle?

A I didn't see Baumgartner carrying a rifle. (Indicating) That was the administration building over here and that's the exit.

MR. BERKOWITZ: Let the record indicate that the

witness points to a block on the left-hand side of Prosecution's Exhibit No. 5 marked No. 1 in black and to the lower side at the side where the entrance is located.

A (Continuing) Then the adjutant would go across this place towards this gate over here.

MR. BERKOWITZ: Let the record indicate that the witness points to a space to the right of block marked No. 1 in black to an opening in the line about the protective custody camp at the entrance of the camp, all located on Prosecution's Exhibit No. 5.

A (Continuing) From there he would go this way past this barracks.

MR. BERKOWITZ: Let the record indicate that the witness points to an open space between block marked No. 1 in red and block marked No. 19 in red.

A (Continuing) (Indicating) And from our window up here we could see until he reached a spot near block No. 17.

MR. BERKOWITZ: May the record show that the witness points — that the witness indicates a direction proceeding downward on Prosecution's Exhibit No. 5 between 19, 18 and 17 on the left-hand side, those blocks being marked No. 4 in black and 19 in red on the right-hand side.

A (Continuing) (Indicating) And in this moment we would notice a comrade of ours from Luxembourg who was working in this block over here which was a clothing depot.

MR. BERKOWITZ: May the record indicate that the

witness points to a block immediately outside the lines drawn for the wire fence about the protective custody camp and located to the left of the block marked "Prison" in red and No. 3 in black.

QUESTIONS BY LT. COL. SKIELVIG (Continuing):

Q What was the name of that comrade of yours you would see?

A He was a soldier from Luxembourg who had been arrested. His name was Albert Cohl; he came from Schuweiler, Luxembourg.

Q What would take place from then on?

A (Indicating) There were two holes in this wall up here. You still can see them today.

MR. BENKOWITZ: Let the record show that the witness points to the right-hand side of the block previously indicated.

A (Continuing) (Indicating) We had two holes in the wall and from there we could watch the yard over here. The holes were about that big and you can still see them today, these holes.

Q How many centimeters in diameter were those holes?

A (Indicating) About two to two and a-half centimeters.

Q Well, did this comrade of yours tell you what took place in the arrest building at that time?

A Yes.

Q What would he generally report to you on that occasion?

A (Indicating) He reported that people had been shot to death in the yard in this corner where there was a roof.

MR. BERKOWITZ: May the record show that the witness indicates the left-hand side of the space directly above block marked "Prison" in red and "No. 3" in black.

Q Did you say that particular end of the arrest building had a roof?

A Yes, yes, this corner here was covered by a short roof.

Q How could he see into it?

A Because this corner is located about six meters here in this corner over here (Indicating).

Q And he could still see down into the arrest yard, is that it?

A Yes, we could see into the arrest yard close to the spot where the roof ended.

Q What do you mean "we" could see? Did you ever see it yourself?

A No, not that but we would come to this place when nothing was going on, when nothing happened, we still could see down from the arrest yard to this spot over here to this corner and the holes in the yard were still about one meter and fifty higher than when we were standing on the earth.

Q And this was strictly all hearsay testimony as far as you're concerned, is that correct?

A No, no — yes, from hearsay. Yes, he told me what was going on after I had watched them up to this point he made the report then what was going on there. (Indicating)

MR. BERKOWITZ: May the record show that the witness indicated the upper right-hand corner of block No. 16, marked in red on Prosecution's Exhibit No. 5.

Q What did he tell you went on in the arrest yard when you called him?

A He would tell me that the adjutant and several other persons, he didn't always tell me the names of these persons, went over to this hole in the arrest corner and then prisoners would be taken out from this door of the arrest building and taken to this corner over here and they were stripped down to the waist and sometimes went completely naked. (Indicating)

MR. BERKOWITZ: Let the record indicate that the witness pointed to a spot on the line drawn directly above the number 3 in black in the block marked "Prison" in red as the place where the exit from the prison was and then indicated a course leftward in the space above the block marked "Prisoners".

Q Did your friend ever tell you whether or not Blomberg ever executed any of this personnel?

A No he didn't tell me that. He couldn't tell me that. He only reported that he saw Blomberg, the adjutant, and the people who were working in the arrest building but he never told me who did the actual shooting and shortly after that the dead body would be carried out by corpse-carriers into the crematory.

Q Returning to this situation in the crematory did you recognize any of the victims that went down to the crematory that you passed by the fence?

A No. No, I didn't recognize anybody.

Q Mr. Diederich, are you still actively engaged in the Communistic Party today?

A No, I don't belong to any party. I am living for my family and for my business.

PRESIDENT: Any further questions by members of the court? Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q You saw these victims being marched down there, the victi s as you called them, with guards?

A Yes, they were escorted by SS men.

Q Did you recognize any of them?

A No, they were members of the guard unit and there were Russians. Most of them were foreigners. There was a constant change going on. There were Russians which h d been drafted into the SS and they had been ordered into the ranks of the SS.

Q When you said these executions were often would you say they happened once a day?

A No I wouldn't exactly say once a day, but several times a week.

Q Several times a week?

A Yes.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q You tell us that they had Russians in the SS?

A Yes, because they were wearing black uniforms where the rest of the SS was wearing green uniforms.

Q Did they have a number of Russians in the SS in Flossenburg?

A Yes, in my estimation at least 150 men.

Q Russian members of the SS?

A Yes.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect? Recross? Mr. O'Connor.

RECROSS-EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Diederich, on these occasions when you say you saw Blomberg including the time you met him when you were coming from the crematory, how was he dressed?

A He was wearing — well, how should I say — he was wearing some sort of a uniform. No, that is not an actual uniform but how should I say it?

Q Well, did he have on an SS uniform?

A No, he was not wearing the color insignia of the SS.

Q Do you know whether or not he was a civilian at that time?

A Yes, as far as I know and as far as we were informed Blomberg had always been a civilian and he was supposed to have been placed there by the Gestapo instead of a former police commissioner Fassbaender.

Q And he never carried arms of any kind, did he?

A No, not visibly from the outside.

Q When you met him on that day when you were coming back from the crematory you were going in opposite directions weren't you?

A Yes.

Q So that by the time Blomberg would have gotten to the crematory you would have been nearly to your work shop would you not?

A Yes, I could have been in my work shop at that time.

Q You didn't see him go in the crematory?

A No.

MR. O'CONNOR: That's all. One more question.

Q How close was this officer to Blomberg when you met them on the way back from the crematory?

A They were walking next to each other side by side. The path next to the wire fence was about 1½ meters wider than this rug over here (indicating) and two persons can walk next to each other very comfortably.

Q Do you know the rank of that officer?

A He was an officer but I don't know what his rank was. He was an SS officer but I did not know him since he did not belong to the camp.

Q Do you know his name?

A No, no.

MR. O'CONNOR: I think that's all, sir.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q When you saw these individuals entering the

crematory how close were you to them?

A (Indicating) Well, it was like this, and it was also done that way. On occasions like that when prisoners were being taken somewhere we had to go to the side and this time we went into this wood storage place.

Q Just how close were you to the individual?

A Perhaps ten meters they passed me.

MR. O'CONNOR: If it please the court, I'd like to get something straightened out. Didn't you ask him how close he was to them when they went into the crematory? I think he testified that he didn't see them go in. I don't know if I understand your question or not.

QUESTIONS BY LAW MEMBER:

Q Did you see these people go in to the crematory, Diederich?

A No. No, I wasn't there any more on occasions like that. The prisoners had to disappear.

Q Well, I understand at the time of your testimony they got down as far as the crematory you were back about to your work shop, is that correct?

A Yes, when they got down to the crematory I could have been in my work shop.

Q Yes, but you don't know whether they went in the crematory or not then do you?

A Well, a comrade of mine could give you more detailed information in this matter. He took care of matters like that. His name is Karl Fugger.

Q Are you testifying what you know or what Fugger knows?

A Karl Fugger came into closer contact with these people because he was operating the crematory and he had to take care of this matter by order of our group.

Q Well, didn't you talk to this Fugger about this particular incident?

A Well, that was not a particular incident. That was an incident which would occur often.

Q What are you testifying to now? Are you testifying about things generally or are you testifying about this particular incident that we have in mind?

A Well, about this particular incident as well as about other incidents, I am telling you that didn't only happen once, that happened often.

Q All right, now then did you ever yourself see Blomberg and the adjutant go in the crematory at or about the time the prisoners were being marched down there?

A Not into the crematory but the guardian down in the crematory told my comrade, Karl Fugger, about it and told him, "Today such and such a number of prisoners were shot to death".

Q And then this Karl Fugger told you?

A Yes, in the evening we comrades would have a meeting and we would tell each other what our observations were which we would make during the day and he told me about that.

Q We are back to the union meeting now, is that what

you're talking about?

A Yes, and whenever we found out that something was going to happen we would have a meeting and we would tell each other about our observations as well and we would take precautionary measures. In the beginning of 1945 our work shops were transferred to someplace behind the camp and from that time on it was no longer possible to watch and to observe what was going on in the camp.

Q Now, what was the name of this union?

A Well, there was no name. There couldn't be a name but just amongst these other comrades we knew each other but we didn't have a name in the group.

Q Well, you had an organization of forty members you said?

A Yes but they were subdivided into various smaller groups because we couldn't have a meeting with forty men.

Q Well, now did you ever have a meeting with forty men?

A No, no that was not possible. That couldn't be done.

Q Now these men were divided, I assume, among the different dormitories were they not?

A Yes, they were distributed all over the place, all over the camp.

Q And then you had a little sort of sub-committee of sub-group meetings, is that the idea?

A Yes, we would have meetings of about five or six men and if we had ten men that was already very much and that

was dangerous because there were spies even among the prisoners.

Q Now do I understand except for this one time that all of these trips to the crematory or in the direction of the crematory were based upon reports of your union organization?

A Yes.

Q Now you yourself only know about one meeting in which Blomberg and this SS officer passed you in the general direction of the crematory, is that right?

A Yes, at that time I saw Blomberg going down there.

Q Now you remember this all so distinctly, can't you remember whether or not Blomberg had on a uniform or whether he had on civilian clothes?

A Well he was not exactly wearing civilian clothes and it was not an actual uniform either. You see, he was wearing military pants and boots and a uniform blouse -- we call it with a Russian name in German.

Q What kind of a cap did he have on, or hat?

A I can't tell you that exactly. Most of the time he was wearing a grey skiing cap.

QUESTIONS BY THE PRESIDENT:

Q Just how do you know it was Blomberg? You seem very indefinite about the clothes he wore and things of that nature, just how do you know it was Blomberg?

A Because most of the time he was wearing this blouse -- this uniform blouse -- and I knew him and he was continuously

(Diederich - Court)

watched and observed by us. We could see from our barracks, we could see when he came out of his barracks and went over to his office.

Q And you recognized him by the uniform blouse, is that right?

A Yes, and his whole behavior. You could recognize him from that. And he was in camp for a long period of time and we would recognize people from a distance of a hundred meters, then we would say, "How such and such a person is our Camp commandant".

Q Well just how far were you from Eloiberg at that time?

A When he was going down there?

Q Yes.

A He passed close to me. (Indicating) He went this way, I went this way down there, and then he was coming and I had to go aside and I was standing like that at attention and took my hat off.

Q How many meters?

A Hardly one meter.

QUESTIONS BY LT. COL. BURGHAN:

Q What was the name of the man who worked in the crematory?

A I don't know that but Karl Fugger could tell you about that. He was a so-called "Bible investigator".

Q Did he work in the crematory?

A Yes.

Q Where does he live?

A You mean Karl Fugger?

Q How do you spell the last name?

A F-u-g-g-e-r.

Q Do you know his address?

A He lives in Stuttgart. However, I don't know the street but you can find out from the police, they will certainly find him.

QUESTIONS BY LT. COL. SKIELVIG:

Q Diederich, after you had passed this group, Blomberg, and Baumgartner, on their way to the crematory and had returned to your work shop, did you ever hear any shots fired a short time after that?

A No, that's impossible, you couldn't hear a shot because the execution took place within the building.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect? Recross? Mr. O'Connor.

RECROSS-EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Was that man that worked in the crematory who gave information to your friend or comrade an SS man or a prisoner?

A Prisoner.

Q Well, was it common in that camp to have prisoners working in the crematory?

A Well, leadership -- must have had a certain confidence in these people to be picked up by the leaders of the camp.

MR. O'CONNOR: That's all, sir.

PRESIDENT: Further redirect?

PROSECUTION: No.

(Diederich - Recross)

Ta 567-10/31-DHC-23
FLOSSENBURG

MR. HALL: I have one.

PRESIDENT: All right.

MR. HALL: This is cross-examination.

PRESIDENT: Proceed.

RECROSS-EXAMINATION

QUESTIONS BY MR. HALL:

Q Mr. Diederich, you mentioned that Karl Schrade was a pretty good sort of fellow —

MR. BERKOWITZ: May I inquire in whose behalf?

MR. HALL: Dr. Schmitz.

Q (Continuing) Was he a member of the Communist party also?

A That's beyond my knowledge. I don't know.

Q How often did you associate with him?

A How should I say? I talked to him repeatedly when I had to do some repairs. When I had to repair something in the hospital I would see him repeatedly and talk to him.

Q He was a member of your group was he — your union?

A My group? No.

Q And is it correct that Kurt Goltz is the one who told you that Bergen-Belsen was a convalescent camp?

MR. BERKOWITZ: I object to it, it is repetition.

MR. HALL: There's some doubt in my mind, sir. There were two names mentioned there.

PRESIDENT: Objection overruled.

A Yes, I talked to him about this matter.

Q Well, my question is, is it correct that Kurt Goltz is the one who told you that Bergen-Belsen was a convalescent camp?

A Well, we didn't quite know what was going on in Bergen-Belsen. We weren't quite informed on that.

Q It wasn't common knowledge then that Bergen-Belsen was an extermination camp, is that correct?

A No, that was not common knowledge.

MR. HALL: That's all, sir.

PRESIDENT: Any further redirect or recross-examination on the part of the defense?

MR. McKAY: Nothing further.

PRESIDENT: Recross?

RECROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q You testified about a roof over part of the courtyard of the prison building. Do you know when that roof was put there?

A That was put there in the mid-summer of 1944.

Q And according to your information it was not there before that time, is that correct?

A No.

Q Can you give me the name of the corpse-carrier who carried the corpses from the arrest building?

A That's difficult because these corpse-carriers varied. They weren't always the same ones.

Q Do you know a Franz Poppenberger?

A Franz Poppenberger?

Q Yes.

A Yes, I think I know him. He was an elderly prisoner of an age between forty and fifty, I think it was pretty close to fifty.

Q Do you know what kind of work he did in the camp?

A He was taking care of the heating system and the water system in the hospital.

Q Do you know whether he was ever a corpse-carrier?

A Well, I don't want to say either yes or no. I must be careful. Yes, you have to be careful in a situation like that. I don't want to hang a person. I don't want to claim anything which I am not quite sure of.

PRESIDENT: The court wants you to be very careful what you say in evidence.

Q If you don't know just tell us so.

A Yes.

Q Now can you tell me at what time of the day you escaped on the 15th of April 1945?

A Between eleven and twelve o'clock at night.

Q How did you escape?

A I took off, I left Oederan together with another comrade, a staff sergeant, and a sergeant of the Waffen SS who had been transferred to the SS from the air corps and another comrade of theirs.

Q What were their names?

A The name of the first one was Paul Bueltmann. He is living in Weiden, Upper Palatinac.

Q Now was Paul Bueltmann an SS man?

A He had been sent together with me to the camp police.

Q Who were the SS men who escaped with you?

A His name was Kurt Saresin.

Q Who was the other one?

A I only know the first name of the third one. I can think of a family of the last name at this time, yes, I have it — his name was Josef Hann.

Q From which part of the camp did he escape?

A From the SS barracks.

Q Why were you in the SS barracks?

A Because we were camp police at that time.

Q Where did you go to in Flossenburg?

A From Flossenburg we went to Altenhammer. We stayed there for two days.

Q Where did you stay in Altenhammer for two days?

A We were staying in the house of the Striegel. He had a transportation business, something like that.

Q Where did you go to from Altenhammer?

A To Weiden — to a village shortly in front of Weiden. The name of the village is Muchkelhof.

Q How long did you stay there?

A Until the night from Saturday to Sunday from the 21st to the 22nd of April.

Q On what day of the week did you escape?

A It was on a Sunday evening.

Q And you spent two days in Altenhammer?

A Yes, we left Altenhammer Tuesday night.

MR. BERKOWITZ: If it please the court, may the witness be directed strictly not to consult anyone or not talk

to anyone about these matters until we arrive in court tomorrow morning?

PRESIDENT: The witness is directed that he will not talk about any of the matters referred to in today's session during the time which you are on the stand or anything about the Flossenburg trial or anything connected with the Flossenburg trial until you resume the stand tomorrow morning. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court adjourned at 1700 hours.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on .....194 .....
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused .....194.....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

FIRST Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG
Case No. .....

~~*Summary~~
~~Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 1 November 1946
0900 - 1505 Hours

~~Members of Court~~

WITNESSES:
CLEMENS DIEDERICH
GOTTLOB BERGER

Pages 6003 - 6044 Incl.

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

1 November 1946 0900 - 1700 Hours Pages 6003 - 6044 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
Clemens Miederich			6004	6003	
Gottlob Berger	6009	6023 6028			

EXHIBITS

NONE

Take 568
11/1 - 1
Floss. JGMcD

CAMP DACHAU, GERMANY
1 November 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Oswalt, Lipinski, Olschewski, Eisbusch, and Wurst, who are sick and whose interests are being taken care of by counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of recross examination.

CLEMENS DIEDERICH, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

RECROSS EXAMINATION (continued)

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Diederich, you testified yesterday that you escaped from Flossenburg on Sunday, the 15th of April, 1945, and left Altenhammer on Tuesday evening. You stated that you came to Muckelhof on Saturday. Where were you between Tuesday and Saturday?

A I didn't say it that way. I said we left Altenhammer Tuesday evening, went to Muckelhof, and we stayed in Muckelhof from Wednesday morning until Sunday night. Then we went to Weiden.

Q How long did you remain in Weiden?

A I remained in Weiden up to the 22nd of June.

Q Did you report to the American authorities when they came into Weiden?

A Yes. I was working for the police, for the Third U. S. Army.

Q Where?

A In the city of Weiden, under the command of Lieutenant Hillmann.

Q Is that C.I.C.?

A No, he was town commander.

Q Town major?

A No, he was a lieutenant. He had one bar up here (indicating).

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect. Mr. O'Connor.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q You say you didn't work for the C.I.C.?

A I was working under the command of Lieutenant Hillmann, for the German police--reorganising the German police.

Q Did you ever work for the American Army authorities?

A Not as far as I know, no.

Q Did you ever interrogate any of the prisoners in this dock?

A I have to think that over a moment. No, I wouldn't know that I interrogated one of these people.

Q Did you ever interrogate any prisoners in behalf of the American authorities?

A Not prisoners from our place, but German prisoners of war.

Q That were being held by the Americans?

A Yes.

Q Mr. Diederich, go back to yesterday afternoon when you stated that you saw Blomberg go into the crematory. You say that he was

with an officer carrying a rifle; is that right?

A No, that is not what I said. I said the adjutant was carrying the rifle when he went into the crematory; that is, he had a rifle when he got down there. Then Blomberg was going down there with an officer, with an SS officer who did not belong to the camp as far as I know; that is, I didn't know him.

Q Did that officer carry a rifle?

A No.

Q Where was the adjutant?

A He was already in the crematory. He was the one who chased us out of the crematory.

PRESIDENT: I did not get that.

(Whereupon the last answer was read by the reporter.)

Q Now, the officer with Blomberg did not have a rifle; is that right?

A No, that's right; and I never said so.

Q Sorry. I thought you did. Who was with you in the crematory?

A A coworker of mine, William Kempe, from Cologne-Muehlheim.

Q Anyone else?

A No.

Q Isn't that crematory outside the barbed wire fence?

A Yes, that is outside the camp.

Q And could you go outside that barbed wire fence without a guard?

A Yes.

Q You were a prisoner, were you not?

A Yes, yes. We also could go to the billets without a guard.

Q You could go in and out of that camp without any guard or any supervision?

A No, not always. No, that is not right, not always. Always at certain occasions I could go within the chain of guards

within the camp area, because the line of sentries were standing outside the fence.

Q Well, the lumber yard was outside the fence, was it not?

A No, that was inside the camp. The guard was standing at the corner which was marked on that exhibit (indicating chart on wall) with No. 8 and could get a good look at the lumber yard.

Q Was it inside or outside the barbed wire enclosure?

A Outside the barbed wire enclosure. Our workshops as well are located outside.

Q And you could go out there without a guard, could you?

A This black line appearing on this map is the barbed wire fence, which was electrically charged, and the whole SS camp is located outside the barbed wire enclosure.

Q What I mean is when you went to the wood yard you were going outside the barbed wire enclosure without a guard; is that right?

A Yes, yes, without a guard. Not only I myself but all the craftsmen who were with me--we were always outside the barbed wire fence.

Q Do you know whether or not there was a regulation in the German army that an officer could not carry a rifle?

A Well, you see I have been absent for quite a period of time, for long years, and I really don't know what kind of regulations they had in the army under the Nazi regime.

MR. O'CONNOR: That is all.

PRESIDENT: Recross examination?

MR. BERKOWITZ: Nothing further, sir.

PRESIDENT: Questions by members of the court? The court will take a short recess.

(Whereupon the court recessed in place.)

(Diederich - Redirect)

(Whereupon the court reconvened at 0925 hours.)

PRESIDENT: The court will come to order. Questions by members of the court? Apparently not. Does the defense have anything further as far as this witness is concerned, either redirect or recross?

MR. O'CONNOR: Nothing further.

PRESIDENT: Prosecution?

MR. BERKOWITZ: Nothing further.

PRESIDENT: The court understands then that the defense is finished with this particular witness.

MR. O'CONNOR: That is correct.

MR. BERKOWITZ: If it please the court, the court has just said the defense is finished with this witness. I want to have the opportunity to talk with this witness after he leaves the stand, but I have found sometimes when I have talked to witnesses who have been said to be finished that later they are reinterrogated by the defense. I would like to have clarified the policy of the court with regard to witnesses which the defense is supposed to have finished questioning.

PRESIDENT: What is the purpose of the interrogations as far as the witness is concerned, without disclosing any unnecessary facts. He has been called as a defense witness.

MR. BERKOWITZ: I understand that when people have been called as defense witnesses it has been our policy that when they are through they are turned over to us for the purpose of interrogation, and sometimes we get some information that is valuable for rebuttal. That was the policy when the prosecution was finished with its witnesses--to turn them over to the defense--and some of these were adopted as their own witnesses.

(Diederich)

PRESIDENT: Mr. Berkowitz, in order to make certain that the defense is absolutely finished with this particular witness, the court will take a short recess until the senior defense counsel is present.

(Whereupon the court recessed in place.)

(Whereupon the court reconvened at 0950 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: May it please the court, I withdraw my request.

PRESIDENT: The court understands, then, that the defense is finished with this particular witness.

MR. O'CONNOR: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness withdrew.)

PRESIDENT: The court will take a thirty-minute recess.

(Whereupon the court recessed at 1000 hours.)

Ta 569 11-1-46
pls/1
Floss.

Camp Dachau, Germany
1 November 1946

MORNING SESSION

(Whereupon the court reconvened at 1040 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Oswalt, Lipinski, Olschewski, Eisbusch and Wurst, who are ill, and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

DR. WACKER: Gottlob Berger appears now as witness for the accused, Buddensieg, No. 7. I am also going to interrogate this witness on behalf of Nos. 3, 6, 7, 9, 34, 38, 43 and 47.

GOTTLOB BERGER, called as a witness by the defense, being first duly sworn, testified as follows: through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your name?

A Gottlob Berger.

Q How old are you?

A Fifty years old.

Q What is your residence?

A My last residence was in Berlin.

Q Where were you born?

A In Gerstaetten, in Kreis Hiedenheim in Wuertemburg.

Q Where do you live at the present time?

A Here, in Dachau.

Q Are you in the custody of the American authorities?

A Yes, in the bunker.

PRESIDENT: The court desires to advise you that if, at any time, you are asked a question that might tend to incriminate you, you have the right to ask the court to refrain from answering that particular question.

WITNESS: Yes.

PRESIDENT: You fully understand?

WITNESS: Yes.

PRESIDENT: Proceed.

Q In the last half hour where were you?

A In the reception room.

Q With whom?

A First I was in the room on the right and then I was in the room on the left.

Q For what purpose?

A I waited in the room on the right and in the room on the left I was asked some questions.

Q What about?

A About Buddensieg and about the formation of the SS.

Q You weren't asked about any charge that might be brought against you?

A No.

Q What is your profession?

A General of the Waffen SS.

Q Were you a member of the party? If so, from when to when?

A From the 1st of January 1931 until the 1st of October 1934.

Q Did you resign from the Party in the year 1934?

A No, my Gauleiter ordered me to resign, reported me out of the Party.

Q What was your last command post?

A I was the chief official in the Office of Expansion of Troops, the education of troops, taking care of troops, welfare and Germanic culture control center.

Q From your experience in this capacity, can you tell us anything about how the companies of soldiers of the SS and the officers of the SS are picked out and composed in concentration camp duties?

A Yes.

Q When was the SS founded?

A 1925, the Allgemeine SS, the general SS.

Q What was the SS in the year 1930?

A In 1930 the Allgemeine SS had as it's duty to protect the Fuhrer, Hitler, and it also had to act as body guard for all persons who spoke at party conventions.

Q At that time was the SS already an independent organization?

A No, it was under the jurisdiction of the Chief of Staff of the SA.

Q When did the SS become an independent organization?

A After the 30th of June, 1934.

Q What were the conditions up to that time?

A I don't understand your question.

Q The conditions of the organization between '30 and '34. Was it constant, the same way as you described it in the year 1934?

A Yes, but in the meantime the SS grew and in the year between 1933 and 1934 the first armed division of the SS began to grow and be formed.

Q In the years 1930 to 1934 what uniforms and what insignia did the SS wear?

A They wore a black coat with black collar and insignia, black cap with a death's head insignia on it, and they wore their insignia of rank whether the were officers or non-commissioned officers, etc. as was customary in the former imperial regime.

Q What does the death's head stand for?

A The death's head in Germany is a military insignia with a tradition of over 400 years. According to history it was first worn in Bavaria in the battle of Pavia. Frunzener was the leader of the German troops then, and he broke through the French ranks under this banner with this insignia on it.

Q We don't want the whole history and background of the death's head. I just want you to tell me when the death's head began to be used as a popular insignia.

A 1758. Frederick the Great awarded the cavalry regiment of the battalion of Gen. Siten this death's head as an insignia and as recognition for the unheard of bravery and fidelity with which these soldiers had conducted themselves in two wars.

Q Please give the court a brief description about whether or not this death's head was used later on in common usage?

A This regiment, the 10th Regiment of Hussars Cavalry wore this red insignia until they were dissolved in the year 1918. In the year 1805, however, the Duke of Brunswick, who at that time was in the service of England, had two different regiments put into black uniform with this insignia., a cavalry unit and an infantry unit.

Q General, please explain what the death's head represents in general in the year 1930.

A This death's head was the insignia, or was supposed to be the insignia of those who were brave, dependable and faithful, those who embodied the highest virtue of German soldiery.

Q Which people in the SS then wore this death's head?

A We all wore it on our caps. Eicke was the founder of the Death's Head Unit.

Q When were the Death's Head Units founded?

A I can't tell you exactly, it was the end of '33 or the beginning of '34.

Q At that time what reason did they have for founding the Death's Head Unit?

A Eicke, the same man, received charge of the concentration camp here in Dachau which had formerly been under the supervision of the SA. He had to relieve of their duties a great part of the guards who had formerly had duty here because there were a great many misdemeanors going on. They had happened and he wanted to found a new, reliable and specially well fit, equipped, reliable troop. He wanted to found this new troop and give them this death head insignia.

Q Did these units which Ficke founded have anything to do with the Allgemeine SS?

A No.

Q How was this unit of the Allgemeine SS in regard to the death's head unit?

A There was a lot of tension which arose between the Death's Head Unit and the Allgemeine SS. In 1938 there was a riot, a mutiny, in fact, between the Allgemeine SS and the Death's Head Unit here in Dachau, the tension had become so great.

And at that time over 4000 men personally resigned from the Allgemeine SS.

Q General, please tell us as briefly as you can, what were the duties of the Allgemeine SS and what were the duties of the Death's Head SS?

A The duties of the Allgemeine SS didn't change between the years 1930 and 1939. We didn't have any new duties in the Allgemeine SS. We didn't have any new duties.

Q Did the Allgemeine SS have anything to do with the concentration camps?

A Nothing at all.

Q But did the Allgemeine SS nevertheless wear this Death's Head insignia?

A Yes, of course.

Q And what were ~~they~~ their duties of this Death's Head Unit?

A When the war broke out in Poland, a great part of the Allgemeine SS consisted of ages between '00 and 1912. They were drafted due to an order which necessitated service.

Q What were they drafted to?

A They were drafted to make stronger the guards in the concentration camps. That was the official designation of this. They didn't need all these many men. For that reason Himmler ordered that men ages '00 to '07 would be used as guards in concentration camps, and about 2/3, about 7000 men, were taken out of the Death's Head Unit because most of the members of the Death's Head Unit were young men, very young men. And 7000 to 8000 men from the Allgemeine SS in

(Berger-direct)

in ages '08 to 1912 ere also added to that number and that was the beginning of the division, Death's Head.

Q Is this Death's Head Division something different from these Death's Head Units?

A Yes, of course.

Q What is the difference?

A In that moment when this Death's Head Division was founded, in that moment the Death's Head Division became a part of the Waffen SS. That is to say, looking at it as a whole, a division of the Army.

Q Did this Death's Head Division have anything to do with the concentration camps?

A In 1940 and 1941 the wounded members of this Death's Head Division were sent back to their old barracks and in 1940 and '41 were sent again to the front together with those people who had been kept back before that. They were sent as replacement units for the Death's Head Division. I believe I can say with certainty that, starting in the Spring of '42, former members of the Death's Head Units who were fit to be sent to the front, fit for war, no longer had any duty as guards in concentration camps.

Q We are especially interested in this period of time starting 1942. Where did they get their recruits for the guards in the concentration camps in that time?

A As far as I know, the 1st of January 1942, the guards in concentration camps consisted of the following members of the Allgemeine SS who weren't capable of fighting and were in the age groups up to '07. And secondly, guards consisted of members of the old soldiers of the State. And thirdly, members of the SA who were not so young anymore, 1890 up to 1900, as their birthdates. That's the way it was about in 1942.

Q How were these people recruited, or were people allowed to volunteer for this duty?

A They were drafted on the basis of this Necessity Law. There weren't any volunteers.

Q Did this draft come into effect as a result of the war, because of the war authorities, or did it come through the Work Commitment Office?

A All those drafts took place because of the Work Commitment Office, on the basis of this emergency war law. The question of service in war wasn't explained until the end of 1942.

Q In what respect was that cleared up?

A In 1941 I got the following order from Himmler - The General Office of the Army. In regard to the question of consideration of duty as guard in concentration camps as war duty, it would be handled exactly as the emergency militia was. The emergency militia who guarded camps where prisoners of war were kept, that was to be sent through. I didn't know it then, I didn't have any interest in trying to get them this recognition as long as there was one man guarding a concentration camp who was fit to go to war. We had terrific losses in Russia where we had all these rough battles. It wasn't until 1942 when this danger had passed and I could save people for this purpose. We took care of this matter and made it retroactive, back to the draft law of 1935.

Q Do I understand that was the end of 1942?

A Yes.

Q Starting at the end of 1942 onward, what was the condition then?

A These soldiers were called in, drafted for duty guarding the concentration camps, could claim retroactive military

duty and were reported in the local draft authorities and were subsequently drafted. In '43 and '44 there was nothing but drafts and the main people involved here are people from the Southeast - Folk Germans, and the basis of national treaties with Rumania, Hungary and Croatia, it was determined that these Folk Germans should perform their military service in the German Arm or the Waffen SS, whichever it was, and exception would be made in functionaries of officers and non commissioned officers in the Air Force and in Rumania with the artillery. In cases of people who would only be employed in duty around garrisons, those people and the elderly men were drafted as guards in concentration camps.

Q When you say they were sent to concentration camps as guards, what am I to understand by that? Were they drafted or did they volunteer for that duty?

A They were ordered to do that duty.

Q Were these orders legal according to legal war laws, the laws of warfare?

A They were all under martial law, under the rules of land warfare, on the basis of the national draft law of 1935 and on the basis of the individual laws of the countries from which they came.

Q Could anybody refuse to carry out such an order?

A No.

Q What would have happened if he had objected?

A He would have had to be placed before an SS court and police court.

Q What punishment could be given if he had not carried out such an order, refused to carry out such an order?

A It wouldn't have been under five years in relation to the unbelievably hard sentence the SS and police courts propounded.

Q What was the highest punishment?

A Death.

Q Would it have done anybody any good if he had made an appeal and tried to get out of doing duty in a concentration camp?

PROSECUTION: I object to that as a leading question.

PRESIDENT: Objection sustained.

Q What could a member of the Wehrmacht of the Army do if he wanted to get out of carrying out such an order that he would have to report as guard in a concentration camp?

A If he wasn't healthy, that is, if he couldn't report to the front and get out of it that way, then he couldn't have done anything.

Q Where were the guards in the concentration camps, the privates and the officers, where were they recruited in general in the year 1943 and upwards?

A Starting with the year 1943, the reserve troops which were being supplied from the Southeast were exhausted; and starting with the Fall of 1943, I had very little insight into the internal working of this whole affair. But I know from the negotiations which went on, in order to get replacements, that the Navy, the Army and the Air Force, sent complete guard units very often to guard concentration camps.

Q Did these people who were sent for that duty then become members of the Waffen SS? What did they become members of?

A It was a unit in itself, it was a guard unit.

(Berger-direct)

Q Who gave this unit, this organization, orders, the Army or the Air Force or who?

A This organization was under the control of General of the SS Gluecks of the police.

Q Who was Gluecks?

A Starting in 1936 Gluecks was leader of the Chief of Staff with Eicke and he became the successor of Eicke after Eicke had given up anything to do with concentration camps and took over command of the Death's Head Division.

PROSECUTION: Just a minute, may it please the court. I object to the translation of that. Was it Death's Head Division orDeath's Head Unit?

WITN SS: Eicke took over the Death's Head Division when it was founded. It was like this - in 1940 he actually wanted to take charge of both of them at the same time, the Death's Head Division as well as the concentration camps. But we, in the Waffen SS, raised objection to that and demanded that Himmler finally make order out of that chaos and set us straight, and then Eicke took charge of the Death's Head Division for good and the concentration camps came under the direction of Gluecks and he was the immediate subordinate of Himmler and later on they came to Pohl. That probably took place at the end of '42, the latest at the beginning of '43.

Q General, I have to call to your attention that we have certain cases here where people claim that they were sent to concentration camps as guards from the Air Force. To what unit did these people then come? Did they become members of the Waffen SS or not?

A That was just the very question that was never cleared up.

Q What uniform did these people wear then?

A That all depended. I saw people from the Air Force having duty in concentration camps as guards and they were wearing the uniform of the Air Force.

Q Did they have any right to wear the uniform of the SS?

A They certainly didn't have a right to wear the uniform of the Waffen SS.

Q Did it ever happen that they wore this uniform?

A Doctor, you are asking me too much.

Q What I want to know is, did someone in a concentration camp who was wearing an SS uniform necessarily have to belong to the Waffen SS.

A No.

Q Why not?

A Because the uniforms of the guards didn't agree with the uniforms of the Waffen SS, they weren't the same ones.

Q What kind of uniform did they wear then?

A In the years 1940 and 1941 the people in the concentration camps, the guards, wore any kind of cloth they could get ahold of, any cloth that was available, and so it was that they wore all these various materials which had been used. As a result of the order of Himmler or Hitler in trying to establish a standard field gray color uniform, and in the same way the insignia were not standard either. In Berlin on Saturday and Sunday you could see people who wore a Death's Head on one collar and on the other an insignia with a "W" on it, standing for guard or the "LO" on their insignia standing for

Oranienburg or "B" for Buchenwald. About the main thing in regard to the Waffen SS was that they didn't only wear this insignia up here on the collar but they also wore a band on their sleeve and you could tell by looking at this mark on their sleeve, this band, to what unit, to what division they belonged.

Q Were these people who were transferred from the Navy, the Air Force, to the Army for duty in concentration camps, were they taken into the ranks of the Waffen SS or not?

A They were not taken into the ranks of the Waffen SS and they didn't want to be taken into the ranks of the Waffen SS because they knew that anybody who wanted to get into the Waffen SS had to take a very severe physical examination and when things were rough they would be sent to the front.

Q When isolated people were also sent to the concentration camps, were they taken into the ranks of the Waffen SS?

PROSECUTION: I object to that as being leading, may it please the court.

PRESIDENT: Sustained.

Q What you just said, does that hold true for entire, complete units that were sent to the concentration camps as guards or did it also hold true for individual people?

PROSECUTION: I object to that, may it please the court on the grounds it is leading and suggestive.

PRESIDENT: Objection sustained.

Q What you just were talking about, did that hold true in general, or were there exceptions to that?

A I don't know of any exceptions. That was the general rule.

DR. WACK R: Thank you.

PRESIDENT: The court will take a short recess.

(Whereupon the court took a recess in place.)

PRESIDENT: The court will come to order.

DEFENSE: May it please the court, let the record show that Eisbusch and Wurst have returned to the dock.

PRESIDENT: Cross examination, Col. Denson. Just a minute, Colonel. Do you have something Mr. Hall in the nature of direct examination?

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. HALL:

Q When did these terrific losses commence on the Eastern front?

A In the winter between 1941 and '42. It was general for the Death's Head Division.

Q You mentioned that in 1943 the reserve troops in the Southeastern countries were exhausted.

A Yes.

Q How long had you been drafting troops from these Southeastern countries?

A 1940 there were volunteers arriving and they began to draft them in 1942 on the basis of these national treaties.

Q What was this Necessity Law about which you spoke?

A This is an emergency service law, it has its roots back as far as 1920 and on the basis of this emergency service law, the various ministries and offices in the country could call in soldiers, could draft people in emergency cases, and county work commitment offices could force men and women to work at various tasks for which they were fitted.

MR. HALL: That is all, sir.

PRESIDENT: Any further questions from the defense

(Berger-direct)

at the present time? Apparently not. Cross examination, Col. Denson.

CROSS EXAMINATION

QUESTIONS BY MR. DENSON:

Q Did all of the units of the Waffen SS wear the Death Head insignia?

A On their caps, yes.

Q Did they wear this Death's Head insignia on any part of the uniform other than the cap?

A Only those who belonged to the Death's Head Division, they wore a Death's Head collar insignia.

Q What was the insignia worn by members of the Death's Head Units that had concentration camp guard duties?

A The Death's Head Unit at the beginning wore this insignia, that is to say, this Death's Head here on the collar and here, as an arm band. After the Division was founded, this insignia went on the collar, that was taken over by the Death's Head Division, and the arm band became Division Death's Head. And after the Death's Head units were sent to the front, thepeople who were in the concentration camps weren't allowed to wear this arm band insignia anymore. Officially they weren't allowed to wear it.

Q Eicke took command of the Death's Head Division, which was a Panzer division of the Waffen SS, in 1941, did he not?

A No, Eicke took over this Division in the time between 1939 and 1940.

Q Are you sure about that date?

A Yes, definitely. Eicke was the first commander of the Division and he led this Division until he fell inbattle.

Q That was in 1943, was it not?

A It was 1943, the end of February or the beginning of March.

Q He stated he was not permitted to remain at his post in Oranienburg and at the same time command this Death's Head Division, is that not correct?

A That's what he wanted in the year 1940. He felt that he was leader of the guards in the concentration camps, and in the year 1941 the decision was made.

Q In 1940 he was inspector of the concentration camps, was he not?

A No. In the year 1940 he acted as though he were.

Q He still maintained an office in Oranienburg, did he not?

PRESIDENT: Just a minute, there's some confusion over that date. Was it 1940 or -

INTERPRETER: 1940.

A Eicke lived in Oranienburg.

Q Yes, and he maintained an office in the Economic and Administration Office, Dept. 4, during the year 1940, did he not?

A No. At that time the organization wasn't set up like that. At that time Pohl had the Economic and Administration Departments and Pohl didn't appear until the end of 1942 and took overthe concentration camps then.

Q Prior to that time, going back to the decree of the 10th of February, 1936, is it not a fact that the putting of prisoners in concentration camps and their maintenance was under the Gestapo?

(Berger-cross)

A On the 10th of February 1936?

A Correct, the decree of the 10th of February 1936.

A I don't know anything about this decree.

PRESIDENT: Just a minute, there's some difficulty on that translation.

PROSECUTION: Sir, I'll ask the question again.

Q Is it not a fact that by virtue of the decree of the 10th of February 1936, the putting in of people into the concentration camps, that the commitment of persons to the concentration camps, and the maintenance of the concentration camps, was under the Gestapo?

A I don't know anything about the development and internal setting up of concentration camps and how they grew. On the 30th of the 6th month, 1936, I came to the Allgemeine SS and on the 1st day of July 1938 I came as a soldier into the Waffen SS, as I said.

Q Where was your office located?

A In Berlin.

Q Did you have any contact with the staffing of the concentration camps:

A No.

Q Do you have any knowledge of how the concentration camps were staffed?

A How should I understand this question?

Q Did you have any control or exercise any supervision over the staffing of the concentration camps?

A No.

Q Did you have anything to do with the establishment of policy concerning the staffing of the concentration camps?

A No.

Q What connection did you have, if any, with the personnel that were used to staff concentration camps?

PRESIDENT: Just a minute now. The court again advises this particular witness that if he should be asked any question that might tend to incriminate him, that he has a right to ask the court to refrain from answering that question. Do you fully understand?

WITNESS: I thank you but I am ready to answer anything.

PRESIDENT: Proceed. Read the last question.

(Whereupon the reporter read the last question.)

A I was the Chief of the Expansion Bureau of the Waffen SS in the years 1938, 39 and 40. Later on that was an office included in my chief's office. I was intent upon getting all people who were capable of waging war out of the Death's Head Unit and sending them to the front, and naturally, on the other side, I had to see to it that replacements would be given to the concentration camps' guards and I would get these replacements from the people who were not capable of being sent to the front. Starting at the year 1943, because of the steps Himmler took and because of the bad economic situation in Germany when Himmler stepped into industry, the concentration camps were pushed around everywhere. The need for guards increased also, and from that day on I couldn't take any more men because there weren't any more men who were fit to wage war and for that reason I didn't have any reason to give an up, because I didn't have any. The Navy and

the Air Force, above all, these two, had the greatest interest in having their products finished and, therefore, they wanted the working powers to do their work in concentration camps.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Whereupon the court recessed at 1200 hours)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, the witness is not here. Let the record show, may it please the court, that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Oswalt, Lipinski and Olschewski who are sick, and whose interests are being taken care of by their counsel.

If there are any spectators in this courtroom who expect to be called as witnesses in this case, they will please leave at this time.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

PROSECUTION: The witness is reminded that he is still under oath.

GOTTLOB BERGER, called as a witness for the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

PRESIDENT: Continuation of cross examination, Mr. Denson.

CROSS EXAMINATION (Continued)

QUESTIONS BY MR. DENSON:

Q Mr. Berger, did you have anything to do with the administration of the draft laws?

A No, the laws according to which soldiers were drafted were established in the general regulations of the German draft law from the year of 1936.

Q Are you familiar with those draft laws?

A As far as Waffen SS is concerned, yes.

Q Were you familiar with them as far as Allgemeine SS was concerned?

A The Allgemeine SS was not subject to war and Army law.

Q Your knowledge then is confined solely to those laws which pertain to the Waffen SS, is that correct?

A Yes, because that was the field I worked in.

Q You have no knowledge then of the draft laws as they pertained to other units except as you have stated, the Waffen SS, is that correct?

A No, I don't, but the rest of the laws, the laws for all the other units were very simple. There are certain regulations for voluntary--for the individual units of the Army and there are regulations concerning the county draft boards.

Q A man could volunteer for any unit in the military hierarchy provided he could comply with the physical and mental requirements of that particular unit, could he not?

A Well, that was established later on. Everybody could volunteer for any unit of military forces. After he had made application and a physical examination was ordered, then he found out whether he was fit for that particular unit.

Q The Waffen SS remained an elite corps with high physical requirements up to what time?

A The first regulations, or I would rather say, the first changes were made in the year 1943--with regard to the height of people.

Q In other words, a man had to be over a certain height in

(Berger - Cross)

order to qualify for the Waffen SS, prior to 1942, is that correct?

A Yes.

Q Even if he had volunteered for the Waffen SS prior to that time, he was not accepted if he was not of that particular height, is that true?

A No, then he would not be accepted into the ranks.

Q In the year 1942, they were not drafting personnel into the Waffen SS, were they?

A No. The first transfers according to a law from the Army forces to the Waffen SS took place in January, 1940, and particularly, when that division was activated, the division had been equipped, trained down to the line infantry, but there was no artillery with that division and in January, 1940, the first officers and non-commissioned officers that were artillery personnel from the Army were transferred to the Waffen SS in order that the division could

be completed.

Q But that was one, only one isolated case, is that not so?

A The second instance I knew of, that is, the second last transfer took place in December, 1941. At that time between 2500 and 2500--I am not quite sure of the number--were transferred to the division Reicht in Russia from the air force. They consisted of radio personnel, that is, something with communications they had to do with. There had been casualties with the division and the radio operators had to be transferred to the front and then these had to be replaced by members of the airforce, but they weren't asked about it, they were forced.

Q After the first day of January, 1942, when was the next transfer of that type made?

(Berger - Gross)

A As far as I know and for what my knowledge is based on, the next large-scale transfer took place in January or February of 1942.

PRESIDENT: I object to the translation of that date.

INTERPRETER: It should be 1943--I am sorry.

A (Continuing) And that was on the basis of a private agreement between Goering and Hitzich. At that time, Goering made about 5,000 persons available for the division Leibstandarte and the people concerned were younger people, that is, those born in 1921 or younger than that.

Q After that date, what was the next transfer as you have described?

A There were some transfers from the Army, the Navy and the armed forces to the Waffen SS. That took place, but I don't know the numbers.

Q They were relatively small transfers, were they not?

A Yes, but there is something else. In November 1942, Adolph Hitler ordered the activation of three new divisions. Our barracks were empty after all the replacements of the Waffen SS had been committed into action during the winter front in Russia. At the most, you could compose one division and that is the reason why the other people had been mustered out of the labor service camps and their requirements at that time were not so high.

Q That was in November of 1942?

A These actions took place from November 1942 up to January 1943, and in subsequent cases as well, the order would be given that you had to muster out people of labor service camps if there was really a need of people.

(Berger - Cross)

Q All of those transfers that you have described thus far have been from one branch of the combat service to the Waffen SS, is that not true?

A Well, the ones who came from the labor service hadn't been trained yet, they were recruits.

Q These people who came from the labor service, had they, prior to the time of entering military service, been engaged in what might be termed "forced labor."?

A No, that was the ordinary institution, the labor service, to which every German young man had to belong to. That didn't have anything to do with forced labor.

Q In other words, if a man was engaged in an essential industry, he was not required to go into either the Waffen SS or the Wehrmacht, is that not true?

A Well, when he was a young man, he had to be a very highly specialized person. It was like this. The qualified specialists, the technicians, engineers and doctors were requested at the labor office to be classified as irreplaceable from their employers or the authority they worked for; that is, the factory, or whatever the employing authority might be, declared "I need this man urgently in order to finish my products." That then was checked by a commission, a team or the labor office and if somebody had been classified as irreplaceable, that was registered at the work commitment office and was also recorded with the draft board. Then such a person could not be drafted.

Q All right, now you stated that in 1942, in January of 1942, that the concentration guards were composed, or were drawn from three different categories, is that correct?

(Berger - Cross)

A The guards in concentration camps? That certainly is not right.

Q Tell us then what were the sources from which the concentration camp guards were drawn from in 1942?

A As I already said in the first place, they were members of the SS, people of older ages, members of the Kyffhauser which was a veterans organization, and members of the SA. Those people were drafted up to the year of 1942 on the basis of the emergency service decree. This induction did not go through my hands due to the fact I didn't have anything to do with the emergency service decree.

Q Do you know anything about whether or not the guards were taken from the sources that you have just stated of your own knowledge or is that just what you surmise?

A Well, that is what I heard, because really I didn't have anything to do with the guard units. I didn't have any immediate contact with them.

Q So you don't know whether or not a man could volunteer for the deathhead unit of the SS or duty in concentration camps in 1942 or prior to that time? Isn't that so?

A You mixed something up now, Mr. Prosecutor.

Q Do you know whether or not a man could volunteer for concentration camp duty with the deathhead unit of the SS?

A In 1942, there were no deathhead units anymore. That had been deactivated. The deathheads existed up to the 31st of December and no longer. What existed afterwards were guard units.

Q All right, SS guard units who did duty in concentration camps, call them what you will, is it not a fact that a man could volunteer for that duty in 1942?

(Berger - Cross)

A If he was not fit to be sent to the front.

Q Is it not true that many men avoided front-line duty by going to the concentration camps?

A Wounded, disabled men who were not fit for active duty were sent there.

DR. WACKER: That should be "were ordered to go there." rather than "were sent there."

PRESIDENT: The court would like to have that previous question clarified. It is not clear in the minds of the court whether you are referring to guards or whether you are referring to prospective prisoners or prisoners.

PROSECUTION: I see yourpoint, sir. I will rephrase my question.

QUESTIONS BY PROSECUTION (Continuing):

Q Is it not true that many men volunteered for duty as guards in the concentration camps in order to avoid front-line duty?

A No.

Q Wasn't it your duty to weed out from among these concentration camp guards those who were fit for front-line duty?

A Yes.

Q If there were no men in the concentration camp doing guard duty who were able to do front-line duty, what was your job?

A The concentration camps and the guard units and everything which belonged to concentration camps was not even one percent of my work. My duties consisted of something else, Mr. Prosecutor.

Q I know, but I am talking about that portion of your work about which you have testified here, and I assume you are familiar with it.

(Berger - Cross)

A Yes.

Q Namely, that you had to go through the concentration camps and weed out those men who were eligible for front-line duty, is that not correct? —those men among the guards?

A No, that was not my job. Already back in 1941, Himmler had ordered that a commission which was immediately subordinate to him had to check all the offices and authorities which was every three months—all the authorities and that is including the guard units of concentration camps, whether or not they were fit for active service, and they picked out the ones who were fit for active duty.

Q Those men who were fit for active duty had been either volunteers that came in prior to 1941 or thereafter, is that not so?

A No, at that time nobody was asked there. They were not volunteers. They had been drafted on the basis of the emergency service decree.

Q When you say there were no volunteers, do you mean to tell this court that no man could go up and say I want to join up for duty in a concentration camp as a guard?

A Well, yes, of course, this possibility was given. There was a chance to do that, but his request was not granted as long as he was fit for active duty because he was under the authority and jurisdiction of the county draft board. The volunteers for the Waffen SS which had reported to me could not be drafted by me, but they had to be drafted by the county draft board. If somebody who was fit for duty on the front line in the armed forces of middle age or of a younger age, that didn't make any difference. If he would get up and say I want to be a concentration camp guard, he

could not have been drafted by me. That would not have been allowed by the county draft board.

Q Can you tell the court whether or not the deathhead units of the SS ever operated the concentration camps?

A Yes, yes of course, up to the outbreak of the war.

Q When you say "outbreak of the war" do you mean up to 1939?

A 1939, yes.

Q In 1939 did every member of the deathhead unit of the SS resign?

A No, the deathhead units up to 1939 consisted of volunteers exclusively who had signed up for 12 years and they were obliged to keep their contract.

Q There was no drafting them into the deathhead unit of the SS up to 1939, is that correct?

A Yes, right, nobody was drafted.

Q When you mentioned this morning in your testimony about members of the Allgemeine SS not able to fit in an age group "07", what did you mean by that?

A These were the ones who were born in 1907 or older than that.

Q Then those who were born in 1907 and prior to that time were the ones who were taken in as guards in concentration camps in 1942, is that correct?

A No, it was different in 1942 due to the war and the war situation. People of older ages were already drafted when the war broke out. The armed forces did not draft people who were born after 1909, but we went a little further at that time and drafted people who were born in 1908 and later on only such men who were born between 1900 and 1904 were drafted and taken as concentration camp

guards.

Q This is what I am trying to get at and please try to confine your answers to what I ask you, if you will. In 1942, were men who were born in 1907 or prior to the year of 1907 who were members of the Allgemeine SS required to go into concentration camp duty as guards?

A 1907 and prior to that time, yes, and if they were younger and if they were fit for garrison duty only.

PRESIDENT: Just a minute, one of the members of the court would like to have that last question repeated.

(Whereupon the reporter repeated the last question and answer.)

Q You say if they were younger in 1942--were men who were born after 1907 who were fit for garrison duty and members of the Allgemeine SS required to go into concentration camps as guards?

A Yes.

Q If they were not members of the Allgemeine SS and were born after 1907 and were fit for garrison duty only, were they required to go into concentration camps as guards?

A Such people were transferred to us from the armed forces. These were the members of the regional defense battalions.

Q You say they were transferred to us--who do you mean by that?

A The Waffen SS. The army would transfer people to Lt. General of the SS, Juettner. The people would be transferred to the Director Office of the SS and manpower was made available consisting of concentration camp prisoners in case Hitler ordered something special to be manufactured and the air force would make available whole guard units. And I heard, but I didn't see that,

(Berger - Cross)

I only heard that towards the end of 1944, also units of the Todt organization were assigned to guard duty in such cases.

Q What were the requirements for a veteran to be drafted into guard duty at a concentration camp in 1942?

A He had to be able to walk straight, erectly, and he had to be able to do guard duty.

Q So far as age is concerned, that is all I want to know.

A —and that he did not have any physical disabilities. People were drafted up to the age group—that is, those who were born in 1886.

Q In other words, if you were born prior to 1886 and were a veteran, you would be exempt from that duty, is that correct?

A I never heard of any older ones and I think that is old enough.

Q These miscellaneous units that you say came into camps to do guard duty—they were under the command of Glaeske, were they not?

A That is beyond any doubt.

Q Glaeske was a successor to Theodore Eicke?

A Yes.

Q Theodore Eicke was inspector of the concentration camps responsible to Himmler, is that not right?

A Yes.

Q Was there any other denomination of the personnel who acted as guards in the concentration camps after 1939, other than the deathhead units?

A No, I don't know of any other denominations except guard duty.

(Berger - Cross)

Q They were just known then as concentration camp guards, is that correct?

A Yes, guard units. That is what they were called, the name, guard units.

Q They were not soldiers were they?

A They had been drafted as reinforcement for the police forces and up to the year of 1942 they were not attached to anything as far as their service was concerned. That is, they were not soldiers.

Q In other words, they were nothing more than employees of the economic and administration office of Oranienburg.

A Yes, the ones who we drafted according to—

PROSECUTION: That is all.

DR. WACKER: I object to that. Please allow the witness to give the full and complete answer.

PRESIDENT: The witness will be permitted to complete his answer.

A They had been drafted according to the emergency service decree, and if somebody had been drafted according to the emergency service decree, he was subject to the help law and relief regulations. That is, from the very time he was drafted, his wife would receive a certain allotment. The men who had been drafted according to the emergency service law received pay, army pay, which was a little higher than their regular pay, the pay which an ordinary soldier would receive. Because of the fact of that allotment, what the family of a soldier would receive was higher than the allotment which was received by the family of a man who had been drafted

(Berger - Cross)

according to the emergency service decree.

PRESIDENT: Reporter, repeat the answer.

(Whereupon the reporter repeated the answer.)

PROSECUTION: That is what didn't make sense to me, the last portion of the answer that was given.

WITNESS BEHOER: I think there was a certain confusion as to the year 1942.

PRESIDENT: All right, proceed. Just a minute, about the year 1942--

WITNESS BEHOER: Up to now, we only talked about whether or not the service is to be considered as military service until the year 1942--

PROSECUTION: --I would like to ask the questions and let

him answer them.

PRESIDENT: That will be granted, but the reason for this was because he was stopped in the middle of a sentence. The court at a later period will give the witness a chance to make any explanations he sees fit regarding his answer, but right now he is under cross examination by the prosecutor. Proceed, Mr. Prosecutor.

CROSS EXAMINATION (Continuing)

QUESTIONS BY PROSECUTION:

Q Was the pay of a concentration camp guard higher than the pay of a soldier of the corresponding rank or grade?

A Well, this touches the problem I was just about to explain.

Q Just answer my question, if you will, please.

A Yes. Up to the year of 1942, it is known that the people were drafted according to the emergency service law. Their pay was not as high as the pay of the soldier. After 1942, guard duty in

concentration camps was considered active military service. However, there was one clause in one regulation issued which took the effect "I reserve the decision as to the value of this service."

Q Will you just answer the question please, as to whether or not after 1942--

MR. HALL: If it please the court, I suggest that when we have long questions that there be a break so that the interpreter can translate it and that the witness be cautioned not to talk so long in German because we are missing something somewhere.

PROSECUTION: I don't object to that at all. I want to get every bit of it.

PRESIDENT: The witness is cautioned that whenever the

interpreter holds up her hand to cut short right at that particular time so his various sentences can be translated. The court wants to make certain that the interpreter gets everything.

DR. WACKER: But there is another thing I would like to ask; if the witness gives a long sentence and is interrupted or is cut short, I would like to make sure that the witness then be given an opportunity to complete his sentence because I have noticed several times already as soon as the translation is finished, the chief prosecutor asks another question at once.

PRESIDENT: The witness will be given full opportunity to complete his answers. As I have mentioned before, at a later period the court will give him an opportunity to make any explanations. Prosecutor, proceed.

CROSS EXAMINATION (Continuing)

QUESTIONS BY PROSECUTION:

Q Prior to 1942, they were not considered to be in the military

service and subsequent to 1942, these guards in concentration camps were considered to be in the military service, is that correct?

A Yes.

Q All right then, what did you mean a moment ago when you said that persons who were drafted under the Act of 1935 received more pay than the soldiers did?

A Well, I certainly did not say that.

Q Under the draft act of 1935.

A The draft act of 1935, that is the army law, the military law. That must be a mix-up on your part.

PROSECUTION: I don't know, it is down in black and white as I recall, may it please the court.

Q Was there ever a period of time either before 1942 or subsequent to 1942 in which the guards in the concentration camp received more money than the soldiers?

A No, not as far as I know.

Q What about their wives or their dependents; did they receive more money or less money?

A Everybody drafted as reinforcements for the police force according to the emergency service decree, received his allotment and this relief they received was smaller than the amount the dependents of soldiers received.

Q What was it that brought about this change in the personnel in the concentration camps in the year of 1942?

A Well, looking--

Q --this change from being employees of the economic and administration office of Oranienburg to be soldiers on military service.

A Well, looking at it from this angle, actually they never were employees of the economic and administration office of Oranienburg. The concentration camps would receive all their money including pay of guards and employees and this in turn including the deathhead units pay from the Ministry of Interior.

Q That was true during what period of time?

A I don't know, but certainly up to 1939 because the economic and administration office was not an authority of the government.

Q Do you know what it was that brought about this change in the status of the personnel who worked as guards in these concentration camps?

A There was a change as to the jurisdiction in the year of 1942 and so far as I know Glueckx was relieved and made a subordinate to his successor.

PRESIDENT: The court will adjourn until 9 o'clock tomorrow morning.

PROSECUTION: May it please the court, I would like to have this witness instructed that he will not, under any circumstances, discuss his testimony with any counsel, either the prosecution or the defense, or anybody else.

PRESIDENT: That includes the prosecution?

PROSECUTION: Yes, sir.

PRESIDENT: The witness is directed that he will not discuss this testimony with anyone, either the defense or the prosecution, or their representatives. The prosecution is included, as was suggested by the prosecutor himself. This applies to the witness until he resumes his position on the stand at the next meeting of

the court.

DR. WACKER: I really would welcome it that the prosecution would talk to this witness before Monday morning, so we could finish this.

PROSECUTION: I will accept that invitation.

DR. WACKER: I am not going to raise any objection if the prosecution wants to interrogate this witness.

PROSECUTION: I would like to take advantage of this and I think there are a lot of matters that could be shortened.

PRESIDENT: Then the court understands that the defense would have no objection to that.

DR. WACKER: No, I wouldn't raise any objection whatsoever; on the contrary, I would welcome it because there seems to be a lot of misunderstanding which would be better cleared up outside of this courtroom.

PRESIDENT: That has the approval of Colonel Wilson?

DEFENSE COUNSEL: Anything that will shorten this case is satisfactory to me.

PRESIDENT: The court will grant the prosecutor, under the circumstances, permission to talk to this witness before the next session, particularly after the statement of the defense counsel, Dr. Wacker.

DR. WACKER: Definitely, I do not object, but I would like to say in order to clear it that this arrangement applies only to this particular witness.

PRESIDENT: I think the prosecution, the defense and the court fully understands. The court will adjourn until 9 o'clock Monday morning.

(Thereupon the court adjourned at 1505 hours.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on .....194.....
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

Copy of above served on accused ..... 194.....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Case No. .....

*~~Summary~~

*~~International Military Court~~

*General

Place DACHAU, GERMANY

Date 4 November 194 6
0900 - 1700 Hours

~~Members of Court~~

WITNESSES:

GOTTLOB BERGER

LUDWIG BUDDENSIEG

Pages 6045 - 6120 Incl.

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

Imprisonment: Term ..... Beginning ..... 194.....

Fine: Amount ..... To be paid before ..... 194..... or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH FLICKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

4 November 1946 0900 - 1700 Hours Pages 6045 - 6120 Incl.

TESTIMONY

WITNESSES	Direct	Cross	Redirect	Recross	Court
GOTTFRIED FLICKER		6045	6052 6058 6076	6062 6077	6080 6083
EDWARD FLUDERSING	6081 6100	6105	6111	6112	

EXHIBITS

NONE

Camp Dachau, Germany
4 November 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours)

PRESIDENT: The court will come to order.

COLONEL DENSON: May it please the court, let the record show that all the personnel of the court, all of the members of the prosecution are present, all of the personnel of the defense are present, with the exception of Colonel Wilson and Mr. Hall, who are absent on business of the accused, all of the accused are present with the exception of Olschewski, Oswalt, Eisbusch and Lipinski who are sick and whose interests are being taken care of by their counsel. The witness is reminded that he is still under oath; and if there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination -- Colonel Denson.

GOTTLOB BERGER, ~~an accused~~, resumed the stand and testified further through an interpreter as follows:

CROSS-EXAMINATION (Continued)

QUESTIONS BY COLONEL DENSON:

Q Now, General Berger, the Deathhead Unit of the SS was established in 1933 or 1934, was it not?

A Activated, yes.

Q And these units continued until December 31, 1939 when they were deactivated, is that not correct?

A Yes, as Deathhead Units.

(At this point Defense Counsel, A. Hall entered the courtroom).

Q As Deathhead Units, that is correct. Now, the memberships of the Deathhead Units were made up entirely of volunteers, were they not?

A Yes.

Q And the members of the Deathhead Units volunteered for periods of time varying from two to twelve years, did they not?

A Up to 1938 the times of volunteering varied two years, four years, etc., as of 1938. They only accepted volunteers for twelve years service.

Q And these Deathhead Units were used up until September 1939 exclusively for duty in concentration camps, were they not?

A Yes.

Q And this duty in the Deathhead Units of the SS was not considered as military duty, was it General?

A No, that was not counted as active duty.

Q So that if a man volunteered in 1934 for duty in the Deathhead Units of the SS and thereafter reached the age of 20 years, we'll say in 1936, is it not a fact that even though he had served two years in the Deathhead Units he would still be subject to compulsory military training?

A So far as I know. Each year, the 1st of October 1937 and 1938, those who had to do their active duty were called to arms.

Q Well, would a man under the conditions that I have stated to you be called to active military duty even though he had already served two years in the Deathhead Units?

(At this point Mr. McNay, one of the defense counsel, left the courtroom)

A Well, of course, even people who had served four years in the

year of 1938 were drafted.

Q All right. Now, after he had served his two years of compulsory military duty which we'll say terminated in 1937, what would he revert to at that time?

A That is a difficult problem. Part of them returned to the Deathhead Units, part of them capitulated to the Army and became active non-commissioned officers.

Q All right. In other words then, if they did not become non-commissioned officers on active duty they would revert to the Deathhead Units of the SS, is that not correct?

A Yes.

Q Now, in 1939, the 31st of December of that year, the Deathhead Units of the SS as such were deactivated, is that not correct?

A December. The Deathhead Units and the units ready upon call ceased to exist in December 1939 and were called Waffen SS as of the 1st of January 1940.

Q And as early as September of that year, 1939, is it not a fact that approximately 7,500 members of the Deathhead Units of the SS were transferred into the Deathhead Panzer Division of the SS?

(At this point Mr. Maley returned and resumed his seat at the defense table).

A The end of September approximately 7500 -- small numbers don't matter -- were transferred from the SS units and also other members from the SS were transferred under Eicke to the territory Czestochau, Lodz and Kalisch, where they had concerned and formed there the so-called Deathhead Division.

Q And is it not a fact that that left approximately 3,500

former members of the Deathhead Units of the SS still in concentration camps doing duty there?

A Yes.

Q And is it not a fact, General, that the status of these individuals remained in doubt as to whether or not they were on military service or whether or not it was non-military service, from that time, that is, December 31, 1939 up until the year of 1942?

A There is no doubt at all that those who did duty in the concentration camps in the years 1940 and 1941 did not do any active duty, military duty.

Q And in 1942 there was a definite cleavage, was there not, between certain classes of personnel in the concentration camp?

A Yes. This cleavage was in connection with the crisis which existed in the drafting of replacements in Germany.

Q So that in 1942 there were some classes of personnel on duty in concentration camps that were considered to be doing military duty, is that not correct?

A Yes.

Q And the guards were considered to be doing military duty, is that correct, from 1942 on?

A Yes.

Q In other words, those persons in concentration camps whose duty it was to guard the prisoner compound, to guard the prisoners who were at work and to guard the prisoners going from the prison compound to their place of work were considered to be on guard duty and doing military service, is that not correct -- from 1942 on?

A Yes. There was a very - there was a distinction between the

Headquarters Service and Guard service.

Q In other words, all others except those that I have just named to you were considered to be doing staff duty in the concentration camps, is that not correct?

A Yes, those who were not members of the Guard Units were members of the Headquarters Units.

Q And this staff duty in the concentration camp was not considered military duty, is that correct?

A Not as far as I know --

Q Well, if anybody would know about it you would, would you not, General?

DR. WACKER: I should like to have the witness give his complete answer.

COLONEL DENSON: Excuse me. Had you not completed it? Go ahead -- surely.

A While in the year of 1942 all men who were 1-A were taken from the Guards Units and were called to active duty, and all the others who could do guard duty and mainly Volksdeutsche, Volks Germans who were called to duty -- I did not have any orders or did not receive any orders and it would not be necessary to call members to active military service. It happened, however, by order of Himmler, those who had been wounded, who had been shut up or who had sick lungs, who were not capable of fighting in the war anymore, were sent by force to the Headquarters Units of concentration camps, officers mainly. But that can be found out very easily in each individual case.

Q Now -- but your answer to the question that I gave you a moment ago concerning whether or not the duty of the staff of those working in concentration camps, I believe your answer is

that that was not military duty, is that correct?

A No.

Q Well, when you say "no" do yo u mean by that that it is not correct or "no" it is not a military duty?

A It was no military duty.

Q All right. In other words, these members of the staff who were not doing military duty were members then or employees of the main economic and administrative office of the Oranienburg, is that not true?

A I do not know the exact channels of the Headquarters but I assume that.

Q Now, is it not a fact, General, that in 1942 Hitler issued an order to all personnel that if a man volunteered for frontline duty that request must be honored?

A Yes.

COLONEL DENSON: No further questions.

DR. WACKER (In German)

PRESIDENT: Just a mi nute, Dr. Wacker, the court wants to clarify one point.

COLONEL DENSON: What is it sir?

PRESIDENT: The court wants to clear up one point through the witness at this time.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Now, General, you testified in answer to questions put by the prosecutor, covering the status of certain individuals in these concentration camps, in the first case, on guard duty, in the second case on administrative or staff duties --

A Yes.

Q Now, what the court wants to find out at the present time is the status of these individuals in the concentration camps who were on command duty.

A I don't understand this question.

Q What the court wants to find out in case of an officer on command duty in a concentration camp, was his duty considered to be active duty or non-active duty?

A Members of the guard as well as officers of the guard did military duty under all circumstances, at least as of 1942, after the decree issued by Hitler.

Q What the court is referring to is the status of an officer doing strictly command duty like a camp commander, for instance, was he on active military duty at that time or on non-active military duty?

A There also is a decree about this by Adolf Hitler. The decree issued by Adolf Hitler sounds about like this -- I can't give it word for word -- about the recognition of certain units in the police duty and/or special guard duty as war duty. "I order that after the war****" This question was left open by Adolf Hitler about the recognition of these units. So that only those who had been severely wounded and had been sent by force by order of Himmler to concentration camps to do duty there were doing war duty. For them it was natural, not for the others.

Q Then the court understands that any individual, referring to officers, who was physically incapacitated not due to serious wounds and who later on was sent to a concentration camp and actually doing command duty there, that that was not considered to be active military duty?

A No, he was not doing active duty.

PRESIDENT: Continuation ofredirect examination.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Of how many divisions did the Waffen SS consist, approximately?

A The waffen SS had exactly 9 panzer divisions, tank armored divisions, 10 panzer Grenadier divisions, including the divisions consisting of foreign nations, 1 mountain division, 2 cavalry divisions and 6 divisions were being activated.

Q Did the Deathhead Division have a special place among these units?

A It had the special privilege of having seen action in Russia's most beautiful part throughout the war and to have the greatest rate of casualties next to the Body Guard Division.

Q Did this Deathhead Division, and that is what I mean, have any special privileges or rights comparing it with other divisions such as Wiking or Das Reich?

A The Deathhead Division was a division just like any other division without any private privileges.

Q How many members of the original Deathhead Units, and I want you to give just an estimation in percentage, was still doing duty in the concentration camps in the year 1942 until 1945?

A I can't answer that question. All I know is that from the units that had been transferred or from the personnel that had been transferred in 1938-1939, from the Deathhead Units to the SS in 1944, exactly 11 per cent were still alive.

Q What kind of personnel did the original Deathhead Units consist of, considering their being able to do active war duty?

A The Deathhead Units were men all capable of doing front-line duty.

Q Were they drafted?

A Deathhead Units? No.

Q I am not talking about the Units, of course, but about the personnel.

A For duty in the Deathhead Units?

Q No, I mean drafted to do war duty.

A Well, of course, according to orders, when the division, the Deathhead Division was activated.

Q General, you answered to a question propounded by the prosecutor that approximately 7500 were drafted - were transferred into the Deathhead Division and 3500 remained in concentration camps. I want to know what happened to the remaining 3500. Did they remain in the concentration camps or were they drafted also?

A I discussed that explicitly on Friday that these remaining 3500 were in 1940-1941 -- at the very latest by the 1st of October 1941 in the Deathhead Division.

Q My question is now: If those 3500 had been drafted, what kind of people were those in the concentration camps who did duty there voluntarily?

A At that -- from that moment on there were no volunteers there anymore. That includes the Guard units and those units which were to aid the police units as called in by the Reich Defense Office.

Q As of what date did volunteers cease to be working in concentration camps?

A At the latest date, the 1st of December 1941. At this date the last th usand or 1200 men were sent to Dicke which was

surrounded by--near Bryansk. These 1200 men were flown over there by planes and jumped.

Q If an officer does not belong to the Guard Unit but to the Headquarters Unit and is doing staff duty there, such as camp leader, for instance, or that sort of duty, and when this officer has previously been at the frontlines having done war duty there, is his duty in the concentration camp there then considered to be war duty, active service?

A This answer I already gave to the Mr. Prosecutor a little while ago when I stated that those officers, those who had been severely incapacitated by the war and who were sent by orders to the concentration camp were still considered to be on active duty, doing war duty.

Q I ask that question again because you were talking about severely incapacitated or severely wounded people. Were there also others who for other reasons were sent by orders to concentration camps?

A As I unfortunately see here, yes.

Q Please give the reasons?

A I find a man here who had been taking care of Volksdeutsche - Volks Germans in Poland in 1939 and must say that I am shocked to see that he had been sent to do staff duty in a concentration camp. He must have ordered it at one time or another of Himmler to do duty there.

Q Do you know other reasons?

A At the present time I can't think of any.

Q At this time I believe I might ask this leading question: Did they also consider age when they made these transfers?

A Not for active officers of the Waffen SS -- no cases are known to me.

Q I am not talking about active officers of the Waffen SS or perhaps about officers who had been drafted into the Waffen SS, mainly Wehrmacht officers to speak in general?

A Well, of course, when they were sent to the Guard Units, definitely.

Q Could such people not be sent to do other duty other than guard duty?

COLONEL DENSON: Now, I object -- withdraw the objection.

A I don't know that I can say. I didn't have that much view according to the way the concentration camps are run.

PRESIDENT: Caution the witness that in case of an objection you will hold up your hand and that the witness will refrain from answering until the court has ruled. All right, Dr. Engelhorn.

QUESTIONS BY DR. ENGELHORN:

Q I am asking on behalf of the accused Becker, No. 1. General, is it known to you that already in the year of 1941 people were drafted into the Waffen SS by the law issued in 1935 pertaining to the military duty?

A To do guard duty in concentration camps?

Q To do guard duty in concentration camps?

A No.

Q It is not known to you?

A No.

Q Is it possible that that happened?

A Those must have been exceptions because anyone who was drafted through the draft boards, those draft orders came through

my office. It is only possible that a man who had been drafted was then examined again in the caserne, in his barracks, and found to be incapable of doing active duty, for instance, in a case that he had "T" or something like that and was then, without notifying the draft board or my office, sent to do guard duty in a concentration camp. But these can only be individual cases.

Q But when these people got into the concentration camp in such a manner, were they doing war duty?

A No, not up to the general decree issued in 1942. That was an incorrect action taken by a higher authority for which the subordinates unfortunately have to suffer. The authorities who had sent this man as guard to a concentration camp should have notified the expansion office of the SS that this man was being returned and should have been returned to the authorities in his home town.

Q Is it known to you that already in 1940 a so-called Fuehrer order existed; that members of the SS who were doing duty in the Wehrmacht would have to be re-transferred to the Waffen SS?

A Of course.

Q And when such a man was ordered to the Waffen SS in a concentration camp, what was he doing then? What was his status?

A That is a very difficult individual case. If this man had been drafted according to orders into the Wehrmacht and he was doing duty in the Wehrmacht and from his duty there re-transferred to the Waffen SS, and when an SS authority then would send him off as guard to some concentration camp because of an incorrect action taken by them, then according to German law he definitely is doing his active duty. But those are very rare individual cases.

Q How about a man who was, for instance, a sergeant in the Wehrmacht and who was being transferred to the SS, from the SS, to a camp and then in the camp to the headquarters?

A If he was transferred according to orders he was a soldier. But I regret severely that I never found out about these cases because I wanted to have a definite and clean line considering the reputation of my Waffen SS.

DR. ENGELHORN: Thank you.

QUESTIONS BY DR. WACKER:

Q Could officers of the SS units, ready to be called to action, transfer to the SS Deathhead Units?

A That Himmler did in the year of 1938, under very sharp protest. The officers all wanted to leave and at that time the Fuehrer himself had to take a hand in it to get it back into order. At that time, in 1938, for the first time the order was issued that the members of the SS Deathhead Units were to be trained as military men and would have to feel themselves as soldiers and not as policemen.

Q What was the result of a man who was doing duty in a concentration camp, whether he was doing war duty or not?

A For one thing, it showed in his family support. The man doing active duty had a higher family support than the man who had been drafted in the so-called emergency draft call, and the thing equally important, it was a matter of honor.

PRESIDENT: The court will take a half an hour recess.

(Whereupon at 1000 hours the Court recessed)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: If it please the court, let the record show that all the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all of the personnel of the defense are present with the exception of Colonel Wilson and Mr. O'Connor who are absent on business of the accused, all of the accused are present with the exception of Olschewski, Oswalt, Lipinski, and Mohr who are sick and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Dr. Wacker, had you finished with your redirect examination?

GOTTLOB BERGER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

REDIRECT EXAMINATION (Continued)

QUESTIONS BY DR. WACKER (Continuing):

Q General, we stopped at a point where we were discussing the question whether somebody who was doing concentration camp duty was doing active military duty or not. You said that that had certain financial effects. What were the other effects of that?

A The rest of it was purely a matter of honor as far as the relatives of the members of the Allgemeine SS are

concerned.

Q What do you mean by that? What did the SS have to do with the concentration camp?

A The people who were capable of guard duty were called in in order to strengthen the police. They were looked upon as people somewhere between the police and Wehrmacht — the army, that is. As soon as the people who were doing guard duty were recognized as doing active duty, soldierly duty, then there was a feeling of internal liberation.

Q Of those people who were doing general duty in the camp which of them were subject to the SS and police courts and which of them were not?

A All were subject to the SS and police court.

Q Did these people take orders from different sources or did they all have to take orders from the same authority?

A As far as I could see the man who had the highest power in the concentration camp, the man who gave out the chief orders, was the commandant.

Q Did it make any difference to the commandant whether or not a man had been drafted as SS or guard duty on the basis of this general draft law or whether he had been drafted according to the general draft laws?

A No, the commandant was interested in not having any distinctions made.

PRESIDENT: Any further questions at the present

time on the part of the defense, either redirect or recross? Mr. O'Connor.

MR. O'CONNOR: I'd just like to ask one question, sir.

PRESIDENT: What is this, recross, Mr. O'Connor?

MR. O'CONNOR: I don't care whether it's either one.

PRESIDENT: Well, the court wants to know the basis of your questions, Mr. O'Connor.

MR. O'CONNOR: I just want to ask him one question, sir, to clear up a question that isn't clear to me that Dr. Hacker asked.

PRESIDENT: Well, the court will assume it is redirect. Go ahead, under the circumstances.

REDIRECT EXAMINATION (Continued)

QUESTIONS BY MR. O'CONNOR:

General Berger, in response to a line of questioning from Mr. Denson you made certain distinctions regarding the duty of various members of the SS in concentration camps. Now then was the Waffen SS man who was in an inactive military duty status in a concentration camp subject to the same order and the same military law as the man who was in an active military duty status?

A He certainly was responsible to the commandant.

Q Both on the same basis, is that right?

A The SS and police court was the basis of the law for everybody.

PRESIDENT: Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Was there any difference if a man had been drafted according to this emergency draft law and escaped, would he be considered a deserter any different than a man who had been drafted according to the general draft laws?

A That's also a raw point. For instance, a man who had been drafted according to this emergency draft law, that is a civilian law, as soon as he was in a concentration camp he was not responsible to the civilian authorities any more but he was taking his orders from this very sharp SS and police court and as far as I know there was only one punishment for desertion and that was the death penalty.

Q Also for those people who were drawn in to strengthen the police force on the basis of this emergency draft law?

A Yes.

Q At that time what was the reason for calling the death's head units SS at all?

A It's very hard to answer that question. According to the basic conception of Himmler it was necessary to found a national protective status. Already in the year 1938 because of the great difference which existed between the death's head units and the soldiers which were ready to be put into action it was shown that this thought couldn't be carried out.

PRESIDENT: Recross?

Ta 572-11/4-DHC-5
FLOSSENBURG

RECROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q Now, General, you mentioned the 3,500 who remained in the death head unit of the SS after the activation of the death head panzer division?

A Yes.

Q Now did that 3,500 that you mentioned include the personnel who constituted the staff of the concentration camps?

A No.

Q So that if a man was a member of the death head unit in 1938 and was also a member of the staff of a concentration camp and did not wish to go to the front, was that man subject to your draft order?

A No, I had no right at all to interfere with staff matters.

Q So that if a man who was a member of the staff of concentration camps did not wish to go to the front he was not subject to your draft, is that correct?

A I never had any chance to give him such an order. I could only appeal to their volunteers.

Q Now you mentioned that you knew one man who was sitting over in the dock who had been sent to the concentration camp for duty. What is that man's name if you know it?

A Where is he? I just don't think of the name at the moment.

Q You know there is such a man, is that correct?

A Yes.

(Berger - Recross)

Ta 572-11/4-BMC-5
FLOSSENBURG

RECROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q Now, General, you mentioned the 3,500 who remained in the death head unit of the SS after the activation of the death head panzer division?

A Yes.

Q Now did that 3,500 that you mentioned include the personnel who constituted the staff of the concentration camps?

A No.

Q So that if a man was a member of the death head unit in 1938 and was also a member of the staff of a concentration camp and did not wish to go to the front, was that man subject to your draft order?

A No, I had no right at all to interfere with staff matters.

Q So that if a man who was a member of the staff of concentration camps did not wish to go to the front he was not subject to your draft, is that correct?

A I never had any chance to give him such an order. I could only appeal to their volunteers.

Q Now you mentioned that you knew one man who was sitting over in the dock who had been sent to the concentration camp for duty. What is that man's name if you know it?

A Where is he? I just don't think of the name at the moment.

Q You know there is such a man, is that correct?

A Yes.

(Berger - Recross)

Q And you can recognize him if you see him, is that correct?

A Yes.

Q Well, is that man named Buddensieg?

A Yes.

Q . All right, if you see him point him out.

PROSECUTION: Let the record show that the witness identified the accused wearing No. 7 as Buddensieg. No further questions.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q General, when were you first commissioned in the Waffen SS?

A 1st of July 1938 as lieutenant colonel from the army, one of the few lieutenant colonels of the reserve army. I was ordered by the National Education Institute from home. I took my orders to do duty with Heinrich Himmler. I had been an advisor of this education division.

Q Then the court understands at the time that you were commissioned in the Waffen SS you were lieutenant colonel, reserves, is that right?

A Yes. Formerly I had been a lieutenant colonel with the army.

Q I understood you to state the reserve element of the army, is that correct?

A Yes, I was a reserve.

Q General, did you ever have any service in the Wehrmacht?

A No, not with the army. On the 1st of October 1939 I became colonel in the Waffen SS.

Q How much reserve service had you had previous to the time that you were commissioned in the Waffen SS?

A Including the war years of service, 15 years.

Q Now this court has received a certain amount of testimony relative to the SS, the Waffen SS, and the Allgemeine SS. The court desires in a very concise way that you give the court a certain amount of information as to the differentiation between those various groups.

A Yes. The Allgemeine SS was founded in the year 1925. That was a part of the SA at that time and its main duty consisted of protecting any speakers, any orators, and especially Adolf Hitler himself, at public meetings. Almost all their members consisted of soldiers who had seen action in the 1st World War and they were few in number. All in all there weren't any more than 3,000 of them up until the 31st of December 1930. There were 12,500 of them on the 31st of March 1933 and 25,000 five years later. Then it grew comparatively fast. The 1st of July 1938 there were 192,000 of them and 245,000 roughly at the outbreak of the war in 1939. After the 30th of June 1934 they were an independent organization of the Party.

The Waffen SS grew out of the emergency troops, troops which were ready to be put into action, and also grew out of the death's head units. The emergency troops had been built very slowly out of various battalions and in the first of 1939 consisted entirely of volunteers who

were obligated to do service for four and a-half years. Three regiments were garrisons who were considered units by themselves and then besides that the organizations called Deutschland, Germania, and Der Fuehrer, special bodyguards, those three — all in all it's four including the personal bodyguard. At the beginning of the Polish Campaign the troops numbered about 4,000 or 4,500. They were strengthened infantry regiments, motorized, and were a so-called heavy battalion, and in the course of the Polish Campaign the battalions, only the battalions, were sent in as strengthened infantry battalions, infantry regiments.

In October, November, and December, they began to encompass the whole works. For instance, the regiments Deutschland, Germania and Der Fuehrer became the Division Das Reich. The people bodyguard division was built up into a brigade with four infantry battalions, an armored division, and artillery division or battalion, and a division which used the two centimeter cannons, and the Death's Head Units that I have already mentioned became the Death's Head Division. And in the western campaign these units took part, the brigade bodyguard division Das Reich and the Death's Head. There was one infantry regiment with the Division Reich, one regiment had been taken out of the division as a battle unit. They took it out from the regiment which had been built up in 1939 and 1940, Allgemeine SS.

(Berger - Court)

Q It won't be necessary to go into great detail. The court simply wants to get more or less of a general viewpoint of these various organizations.

A In 1939 the Allgemeine SS was a member or belonged to the National Socialistic Party and, according to various viewpoints, the Waffen SS were especially picked soldiers. Their physical build came into question, their height, how they looked, their personal appearance, and proof of good reputation and by checking their family background.

Q Now, General, you referred to a certain order put out by Hitler relative to volunteer duty.

A What order was that?

Q The court is referring to an order put out by Hitler authorizing various individuals to volunteer for front line duty.

A Yes.

Q What was the date of that order?

A I can't tell you that, Mr. President, but the order was put out in the year 1941 for sure. May I ask a question?

Q Yes.

A In speaking about this order I understand where if someone reports for volunteer duty at the front that his wishes must be approved?

Q Now you further testified, General, to the fact that after a certain date there were no more volunteers from the concentration camps. You had previously been speaking about

the transfer of some 7,000 men from the Death Head SS Units and you mentioned about that after a certain date there were no more volunteers for front line duty, that is, no more volunteers for men in the concentration camps. Now what the court wants to know is to just what date you are referring to?

A In the first week of December 1941 after those last 3,500 had been put in, after that, there were no more volunteers of the old SS Death's Head Units as volunteers for guard duty in the concentration camps.

Q And were you referring at that particular time to the matter of volunteering for duty in concentration camps and not front line duty, is that the idea?

A Do you mean the first week of December?

Q That's right, December 1941.

A The last members of the old SS Death's Heads Units who were still volunteers were broken up and sent to the front in the first week of December 1941.

Q Then the court understands that after that date there were no more volunteers for duty in the concentration camps, is that right?

A Yes, that's right.

Q Well, did that same matter apply to the matter of volunteering for front line duty?

A Yes, anyone who volunteered would get to the front. If anyone forbade that for him then he could turn to me and I would see to it that he would get to the front.

Q Now the court understands that the protective custody department in these various concentration camps

was under the direct control of the SS, is that correct?

A In this case that isn't right. The protective custody department took its orders from the commandant. It wasn't responsible to the SS but to the national leader of the SS, in his capacity as chief of the German police.

Q Then the court understands that the protective custody department was directly under the camp commander and did not make reports directly into Berlin, is that the case?

A I don't know much about what went on inside there. The command headquarters of the various camps took their orders directly from Gluecks and up until 1942 Gluecks took his orders directly from Himmler.

Q What I want to find out is whether or not the head of the protective custody department in any concentration camp took orders directly from Berlin or whether that particular individual head of that department took orders directly from the camp commander?

A He certainly got his orders from the headquarters of the various camps.

PRESIDENT: Any further questions by members of the court? Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q General, some of these questions may seem to be repetitious but I want to get cleared up in my mind. For concentration camp duty was it the practice to transfer those who had been injured in battle and no longer were fit for combat to the SS units, that is, for concentration camp duty?

A Yes, there was a lack of guards everywhere because of this rigorous withdrawal through me of people who had been called in in order to strengthen the police force as guards.

Q Could these men have refused this duty?

A No.

Q Were men drafted by the draft board and assigned directly to concentration camp duty?

A No. This drafting of people who were to be used to strengthen the police force, this drafting went through the office RV, that is, national defense office, in the personnel staff of the national leader of the SS, and that was the office that called in all the additional police strength to back up the guards in concentration camps.

Q If a man was ordered before the draft board and found physically unfit for front line duty, could he then be assigned to concentration camp duty by the draft board?

A None of those who volunteered were reported to us, that is, to the Waffen SS.

Q I don't think you understand my question. A civilian who was called before the draft board and found physically unfit for front line duty, was he then drafted into a unit for concentration camp duty?

A Yes, certainly. If he had been with the army then he would first come to the emergency militia battalions and as of the year 1942 these emergency militia battalions were formed into individual units of increasing strength and number.

Q Were members of the Death Head Units ever transferred to the Death Head Division without their consent?

A That wasn't necessary at all because it was a thing of honor for these young people to serve in the Death's Head Division — a matter of honor.

Q Were the members of the Death's Head Units required to take a special oath of enlistment?

A No, I don't know of that. They took the general SS oath to Hitler just like the emergency troops did too. There weren't any two different oaths that they had to take.

Q Did the guard units of the concentration camp come under the control of a commandant?

A The individual man actually took orders from the commandant. Actually the guards took their orders directly from the commander of the guards and he took his orders directly from the commandant.

Q Then that would be active service for the commandant of the camp?

A No.

Q He would not be considered a part of the guard, is that correct?

A In this case, no.

Q Now I believe you stated the men in Death's Head Units were not on active duty, is that correct?

A Up until the year 1939, yes, that's right.

Q I believe you stated 1942?

A No, that's a mix-up. The Death's Head Unit consisted of those who had voluntarily reported for duty in concentration camps and were obligated to serve a long period of time. And the service which they performed, their duties, up until the year 1939 were not considered active military duty. And after that these people came without any exceptions to the Death's Head Division and after that became soldiers. In the year 1942 the local draft boards took over drafting in soldiers for the soldiers of the guards in concentration camps and that made them soldiers. And as I already said on Friday, those people who were not 1-A, who were not capable of being sent to the front, were also called in as military soldiers. And so as of the year 1942 the only people who did guard duty in concentration camps were people that had been called in in a military manner and were looked upon as soldiers.

Q Then all men on concentration camp duty after 1939 were drafted into the service and were considered soldiers, is that correct?

PROSECUTION: Just a minute, I object to that translation, may it please the court. The translation was "drafted in as guards".

COLONEL JACKSON: Well, I'll ask it another way.

Q Were those men drafted into concentration camp duty as guards, were they considered soldiers on full duty?

A Yes.

Q That applies to all men in concentration camp guard duty after 1939, is that correct?

Ta 572-11/4-dho-15
FLOSSENBURG

A No. The final ironing out of this matter came in 1942. All those people who had been called in had been drafted between the years 1939 and 1942 to strengthen the police force and those people could not count those years as active military duty.

Q What part of 1942 was that put into affect?

A I can't tell you exactly any more. I believe it was around the middle of the year.

Q Did that include also the non-commissioned officers and personnel on staff duty in the concentration camps?

A No.

Q Did it include the officer personnel on staff duty?

A Only insofar as they had been transferred there after they had been severely wounded on the front.

Q There has been testimony before the court which would show that former inmates were drafted into the SS and given uniforms of the SS with the Death Head insignia. Do you know anything about that?

A What inmates?

Q Of the concentration camps.

A In the year 1944 members of concentration camps who voluntarily reported for this duty were taken into the Division Dirlewanger. They were introduced or transferred directly to Dirlewanger as a result of an understanding between Dirlewanger and Glueeks or Pohl respectively, although it was probably Glueeks because he was the commandant at that time. You can't really say they were drafted. That expression is too hard here because that is a military expression but they were taken into the ranks.

Q Can you explain why they would be issued an SS uniform with a Death Head insignia on the collar?

A These divisions didn't have any Death's Head. They had a field grade uniform. They didn't have this eagle insignia on their sleeves. (Indicating) They had a crossed handgrenade with a rifle as collar insignia and, according to the rules of land warfare they weren't actually registered as soldiers.

Q Now you have stated that the head of the SS in Berlin was also head of the police, is that correct?

A Yes.

Q The same individual was head of both the SS police and the SS in Berlin, is that correct?

A Yes.

Q And the Waffen SS?

A Yes, he had a lot of things he was doing at the same time.

Q Now punishments, as I understand it, for inmates were handled through the protective custody, is that correct?

A I can't testify about the internal workings of the concentration camps because I really don't know about it.

Q Would you know that orders promulgating death sentences from the protective custody were they passed down through police channels to the commandant or would they go through the Waffen SS channels?

A They went this way. The death sentences from the commandant to Gluecks and from Gluecks to Himmler. That is to say, all death sentences had to go through the court channels to Himmler.

Q How does that mean death sentences to SS and also to inmates?

A I mean here the death sentences of the SS, that is, let us say, the guards. I don't know the chain of command in regard to the inmates.

Q Then there were two chains of command, is that correct?

A I can't tell you that for sure because I don't know the channels. I don't know how much the main office of the SS court in Berlin had to say about passing of death sentences on inmates but I was of the opinion that no death sentences could be passed upon inmates unless it had gone through the main office of the SS court. But according to what I have found out since the year 1945 I am not so sure about that any more. That is why I can't answer this second question because I'm under oath.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q There is one issue I would like to clear up, General. Do I understand definitely that all of the guards, that is the SS officers and soldiers, or rather non-commissioned officers and privates, were on active army duty after some time in 1942?

A Yes.

Q That question wasn't so clear. In other words, the officers, the non-commissioned officers, and the privates were all on active army duty?

A Yes, active duty.

Q Now I am just talking about the guards in the camp?

A Yes, I'm talking about the guards t o.

Can you fix the approximate date that they went on active duty in the army?

A No, that was based on a decree of Hitler that must have come in the summer or early fall of 1942.

From your earlier testimony I got the impression that that change took place in December 1941 but now it is definitely sometime perhaps in the summer of 1942?

A I can't trust my memory too much either but I say that it happened in the summer of 1942 because it was tied up with this matter of replacements at this crisis and I believe that my memory is correct here. It was either summer or early fall 1942. It occurred about the same point of time where Pohl took over the concentration camp and around the same period of time the inmates of concentration camps were used as workers in armament factories.

Q Now you testified that those who were wounded and who were transferred to the concentration camps in 1942 and all were on active duty that also includes now I understand those that were already there, they were on active duty as soldiers after some time in 1942?

A Yes, that applied to everybody because after the year 1940 those people who did duty as guards in concentration camps were not 1-A. They were drafted as only capable of doing guard duty -- garrison duty.

Q But it was not effective until the summer of 1942 I understood you to say?

A Yes, this order.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect? Dr. Hacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. HACKER:

Q When the president of the court asked you whether you had seen military active duty you said, "No". Does that apply to both wars?

A I didn't think that this question applied to me myself. In the 1st World War I served actively. I was wounded four times. In the 2nd World War I was wounded three times and twice I was buried alive.

PRESIDENT: I think, Dr. Hacker, that there must be some misunderstanding on that particular question. The question as put by the court referred to his previous service as a reserve officer and the court also endeavored to find out whether he had ever had any service in the Wehrmacht itself.

QUESTIONS BY DR. NOELHORN:

Q Was there any difference in pay between those people who were drafted in the ordinary way and those people who were drafted according to the emergency draft law?

A Yes, the pay itself was different and the support of their families was different and the difference consisted in the fact that those people had been drafted according to the emergency draft law received, less pay, and their families were not supported as well as those people who were drafted according to the general draft laws.

A Yes, this order.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect? Dr. Hacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. HACKER:

Q When the president of the court asked you whether you had been military active duty you said, "No". Does that apply to both wars?

A I didn't think that this question applied to me myself. In the 1st World War I served actively. I was wounded four times. In the 2nd World War I was wounded three times and twice I was buried alive.

PRESIDENT: I think, Dr. Hacker, that there must be some misunderstanding on that particular question. The question as put by the court referred to his previous service as a reserve officer and the court also endeavored to find out whether he had ever had any service in the Wehrmacht itself.

QUESTIONS BY DR. NOELHORN:

Q Was there any difference in pay between those people who were drafted in the ordinary way and those people who were drafted according to the emergency draft law?

A Yes, the pay itself was different and the support of their families was different and the difference consisted in the fact that those people had been drafted according to the emergency draft law received, less pay, and their families were not supported as well as those people who were drafted according to the general draft laws.

a 572-11/4-DHC-2
FLOSSENBURG

PRESIDENT: Mr. McKay.

MR. McKAY: I want to ask one question on behalf of the accused I represent due to the fact that he brought out statements that prisoners were allowed to volunteer for service and responsibilities in SS units.

RECROSS-EXAMINATION

QUESTIONS BY MR. McKAY:

Q General, do you know the procedure which was followed for a prisoner in a concentration camp to volunteer for the Dirlewanger Unit?

A No, how that was managed — no.

Q That was handled through the camp commandant?

A Definitely.

Q Were there any benefits given to a camp commandant to your knowledge based on the volunteers secured for the Dirlewanger Unit?

A I can't say.

Q Do you know what kind of service the Dirlewanger Unit performed on the front lines?

A They were put into action fighting the Partisans in the area around Minsk, White Russia.

PRESIDENT: Mr. Hall.

QUESTIONS BY MR. HALL:

Q Again this may seem repetitious but it is a point that I desire to clear up. It is my understanding that you have testified that upon the deactivation of the Totenkopf SS on 31 December 1939 —

A You mean the Death Head Units?

Q — Death Head Units, that volunteers for concentration camp guard duty were no longer accepted? Is my understanding correct?

A Yes.

Q Now we have been discussing a distinction between certain individuals classified as military active duty and those classified as not active military duty. Now, if on the one hand we have an individual classified as on active military duty and on the other hand we have an individual classified as not on active military duty, are both subject nevertheless to the same military laws?

A Yes.

Q And are both subject to the same military discipline?

A Yes.

Q And are both subject to the same military courts jurisdiction?

A Yes. In order to iron out all these various contrasts and to put them all in the same pot Himmler created the SS and police jurisdiction.

MR. HALL: That's all, sir.

PRESIDENT: Any further questions on the part of the defense at this time?

MR. McKAY: Nothing further, sir.

PRESIDENT: Recross?

RECROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q General, did I understand you to say that by virtue

of a decree of Hitler's, the exact terms of which you could not remember, it was left an open question as to whether persons who had been severely injured on the front and sent back to concentration camp duty were to be given credit as being on active military service while they were doing that concentration camp duty?

A No, that's a misunderstanding. In regard to those soldiers who had been at the front and had been wounded severely and were put into duty in concentration camps, in regard to them their time was reckoned in as military duty and recognized as such because they were transferred soldiers. This decree first referred to people in the staff of the headquarters of concentration camps or people who did police duty who had never seen active military duty and in this decree he said that he would reserve his final decision about that until the end of the war. Actually that meant the following. He didn't want to recognize — in other words he didn't want to support anyone who was trying to get out of active military duty.

PROSECUTION: No further questions, sir.

PRESIDENT: The court will adjourn until one-thirty this afternoon.

(Whereupon the court recessed at 1200 hours.)

Ta 573 11-4-46
pls/1
Floss.

Camp Dachau, Germany
4 November 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1350 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Col. Wilson who is absent on business of the accused; all the accused are present with the exception of Olschewski, Oswalt, Lipinski, who are ill and whose interests are being taken care of by counsel, and Dr. Schmitz who is conferring with counsel.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: I don't believe you have finished, Mr. Prosecutor.

PROSECUTION: Yes, I asked my last question.

PRESIDENT: Any further questions on the part of any members of the court? Apparently not. Redirect?

MR. HALL: Nothing.

PRESIDENT: The court understands the defense has finished with this particular witness at the present time?

MR. HALL: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness, Gottlob Berger, was excused and withdrew.)

DR. WACKER: Buddensieg, No. 7, now takes the witness stand to testify in his own behalf.

LUDWIG FREDERICK FRANZ BUDDENSIEG, an accused, voluntarily took the stand in his ownbehalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Ludwig Frederick Franz Buddensieg.

Q How old are you?

A 61 years old.

Q Are you married?

A Yes.

Q Have you children?

A Yes.

Q How many?

A Two.

Q Where is your residence?

A Bitterfeld.

Q Where are you located at the present time as an accused?

A In Bunker No. 2, Camp Dachau.

Q What was your civilian profession?

A I was an employee of the local sick cashier's office and I was the manager of that cashier's office.

Q Where?

A Noldenburg. in Bitterfeld and in Lissa.

Q Were you a member of the Party?

PRESIDENT: Just a minute, Doctor. (To witness) The court understands you desire to take the stand in your own behalf, is that correct, Buddensieg?

(Buddensieg-direct)

A Yes.

PRESIDENT: What is your first name?

ACCUSED: Ludwig Frederick Franz Buddensieg.

Q Were you a member of the Party?

A Yes, since the 1st of October 1927.

Q Were you a member of the SS?

A Yes.

Q Since when?

A Since the 1st of October 1930.

Q You were a member of the Allgemein SS?

A Yes, the Allgemein SS.

Q What rank did you have in the Allgemein SS?

A 1st Lieutenant.

Q Were you a soldier in the First World War?

A Yes.

Q With what troop?

A I was with the Royal Navy.

Q What rank did you have when you were released?

A Deck Officer.

Q To what rank in the general Army does that rank of Deck Officer correspond?

A It corresponds to the rank which appeared in the First World War, the rank of representative of an officer, deputy officer.

Q Were you active at all, did you have any duties at all, in a concentration camp between the years 1930 and 1939?

A No.

Q Were you drafted in the Second World War?

A At the end of August 1939, as a result of this general service law, I was drafted as a police reserve, to strengthen the police.

(Buddensieg-direct)

Q Where did you go?

A Flossenburg.

Q What rank did you have when you were drafted?

A Corporal.

Q What work did you have in Flossenburg, or to what troop did you come?

A Guard duty.

Q Who was the superior then, in the year 1939?

A Soeltner was the superior of the guard troops there at that time, and Max Kunstler was the Commandant of the camp.

Q How did it happen, Mr. Buddensieg, that you were released from the service in the last war as an officer's deputy and were drafted in this war as a corporal?

A The men of the Allgemein SS got a document in regard to this draft, and in this document there was one sentence which had the following meaning: every member of the Allgemein SS who was being drafted, it didn't matter what rank he had before, would have to be drafted as an ordinary soldier, and it was up to him to perform his duties in this lower rank exactly as he had performed them in the higher rank.

Q Did you get promoted?

A Yes. In the course of November '39 I was promoted.

Q What was your rank?

A I was named as a 1st Lieutenant of the Reserve of the Waffen SS.

Q On the 1st of January 1942, what rank did you have?

A I was still a 1st Lieutenant of the Reserve of the Waffen SS.

Q Later on did you get promoted again?

A Yes, I was named a Captain of the Reserve of the Waffen SS and that took effect on the 18th of January 1942.

Q How long did you stay in Flossenburg?

A Until the 31st of March 1944.

Q At that time where did you go?

A I went back into my own profession.

Q As a member of the cashier's for sick people?

A Yes.

Q Were you released from the service?

A Yes. It was my first desire to be released from the Waffen SS and I was formally released.

Q What was the reason according to which you were allowed to be released from the Waffen SS.

A Already in the year 1942 I had contemplated the possibility of returning to my own profession. I had two reasons at that time which made me think like that. In the first place I thought a great deal about my own profession and my profession had cost me a lot of sweat to get it. And in the second place there were personal differences that existed between me and Mr. Kunstler who was then either major or lt. colonel of the SS. These were human reasons and as far as I was concerned these personal differences could not be taken care of and so, in the year 1942, I decided that I would try to return to my civilian profession and do it through official SS channels. This didn't succeed and the beginning of the year 1943 I directed my request at the civilian command post. It wasn't until the end of March 1944 that I was allowed to be released and to make that possible, the national Minister of Work had to put a word in for me himself.

Q Mr. Buddensieg, I'd like to know the reason why you were released. Was it because you were ill or your age or what was the reason?

A I can't tell you why I was released because I never found out the reason.

Q The 1st of January 1942, wha duties did you have in Flossenburg?

A I was the leader of the First Guard Company.

Q How many guard companies were there?

A At that time there were three guard companies.

Q Who were the leaders of the two others?

A In the 2nd Company it was 1st Lt. Heimann and the 3rd Guard Company had as its leader, 1st Lt. Ritterbusch.

Q Did all three of these guard companies have the same commandant?

A Yes, and it was the Commandant of the Camp, Kunstler, who acted as Commandant of the guard companies as well as his other duties until he finished his duty in the Camp. That would probably be around the Fall of 1942.

Q How many men were in such a guard company?

A There were about 100 to 120 or 130 men in such a guard company.

Q How many noncommissioned officers?

A There were comparatively more non commissioned officers in such a company than is usually the case and the reason for that was that many of the men who were drafted for this guard duty had taken part in the First World War. They were veterans and when they came into the new position, they kept their ranks.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: The court will come to order.

Q Mr. Buddensieg, please show us on the map where the guard company or the guard companies were located inside the

the camp and outside the camp.

A The guard companies at that time were quart red in these barracks here (indicating)

Q What do you mean, "at that time"?

A I don't understand you.

Q '42, '43 or when?

A Yes, starting at the time January 1, 1942, from then onwards, of course, they were quartered in these barracks.

MR. MC KAY: Let the record show the witness has indicated immediately to the left of the line representing the wire enclosure above the entrance, with the exception of the first block, the second, third, fourth, fifth, sixth blocks, running next to the fence, as the barracks where the guard companies lived.

Q Where were you quartered?

A The Company Room of the 1st Company was located at that spot here. (indicating)

MR. MC KAY: Let the record show that the witness has indicated the spot at the extreme left of the second box or above the entrance and to the left of the line representing the wire enclosure of Prosecution's Exhibit 5.

A Here in the front was the clerk's office and the room of the Company Leader was behind the clerk's office. The window was facing out in this direction, to the back, and for a temporary period from the end of '42 until the beginning of '43, the company was here. (indicating)

MR. MC KAY: Let the record show the witness indicated the Company Room was located temporarily in the center of the block heretofore referred to on Prosecution's Exhibit 5.

Q Buddensieg, please show us on this chart where the men went through the Manual of Arms. Where were the guards stationed in order to practise with their weapons?

A Do you mean where the guards stood guard duty?

Q Yes.

A As far as the prisoner's camp is concerned, the guards were located on these spots. The rest of it isn't located on this chart at all.

MR. MC KAY: Let the record show the witness has just indicated the guard spots as being in the blocks which are outside of the line represented by the prison compound enclosure, with the exception of the block with the figure "7" in it. On the other blocks, the one on the extreme lefthand upper corner, having no number; the one to the right of that having the word "tower" written in red; the other having no number except the one at the lefthand lower corner which has a figure by the side of it, on Prosecution's Exhibit 5

PRESIDENT: Just a minute. Will these details about which the witness is testifying at the present time be tied in with the main features in this case?

DR. MAKER: Yes.

PRESIDENT: Carry on.

Q Please describe the positions in more detail. I mean, were they ordinary positions or what do these positions stand for? What was there?

A These towers which are marked here didn't exist until 1943 and they are stone towers. In place of them we earlier had wooden towers and the wooden towers were more numerous than these towers here.

MR. MC KAY: Let the record show that the witness has indicated the blocks heretofore mentioned as being the towers which were erected after 1943. Prior to

that time there were wooden towers which were more numerous than those shown on Prosecution's Exhibit No. 5.

Q Where did the wooden towers stand, the wooden towers you mentioned and you said were more numerous than the stone towers which are marked here?

A The wooden towers stood in the same places as these but there were more of them placed in between.

MR. MC KAY: Let the record show that the witness has indicated the lines on the left side of the plan which represented the fence, pointing to the middle of them, indicating there were wooden towers there o Prosecution's Exhibit 5.

Q What did you have to do with the operation of the camp?

A I didn't have anything at all to do with the operation of the camp.

Q On what occasions did you come into the camp?

A I had no official occasions for doing that.

Q How often did you come into the camp?

A I was there almost five years and I came about two or three or four times into the camp for purely personal reasons. On one occasion I took a look at how they breeded rabbits and on the second occasion I looked at the bed construction in a certain block, and on the third occasion I was x-rayed in the prisoner's hospital.

Q What relationship did you have with the prisoners?

A None at all.

Q How did you meet the prisoners, what contact did you have with them?

A Practically speaking, none at all. The only contact I had with prisoners was that occasionally they would come

into my own house as handworkers or they would come into the area where the company was and clean up.

Q What did your duty consist of?

A The duties of a company leader in the concentration camp Flossenburg consisted, first of all, of dividing up the duty, that is, we had to split up our guards and put them on various posts, whether they had the main duty or with the chain of guards and for the small work details. As far as internal duties were concerned, a company leader had to see to it that his guards were instructed and trained and that they formally practised. He had to take care of the welfare of his men and of the families of his men, and he had to take care of all the paper matters.

Q Mr. Buddensieg, describe your duties in regard to the guard duty?

A The various men of the guard would be changed around and would relieve each other and men of the other two guard companies, according to a specific schedule that was set up. This plan, this schedule of duty would be mimeographed and hung up in the various command posts of the companies, and everybody could take a look at it.

Q. How many people would have guard duty as a result of that?

A I remember that the highest number of men at that time who had guard duty were 45 or 50, including the non commissioned that had their duty there on these spots which corresponded to the towers marked on this chart. And these men who had guard duty would automatically be exempted from the company for a period of 24 hours when they had their duty.

Q What do you mean to say when you say "they were exempted from the organization."

A B that I mean to say, for this period of twenty-four hours, the leader of the company could no longer have authority over his men.

Q From whom did these guards then take their orders?

A In the first place, these guards took their orders from the Commandant of the camp and also from his deputy, the leader of the Security Service.

Q Would you please describe to us, Mr. Buddensieg, how these people would go off for guard duty and from what period of time on they would no longer be under your orders?

A As soon as the guards had fallen in in front of the company, they would march off to the roll call square and there they would be told what to do by the leader of the duty, the duty officer. This instruction consisted in telling them what the password was and a short specific instruction, if necessary.

Q Who gave this instruction?

A The leader of the Security Service gave this instruction. From this moment onward, the guards no longer took orders from the leader of the company. They were exempted from the company, and they took their orders from the leader of the Security Service.

Q What power of command did you have over these troops which had gone off to do guard duty?

A For that period of time I lost my power of command over them.

Q Didn't this guard troop which had been instructed take any orders from any non commissioned officers?

DR. WACKER: I withdraw the question. I will change it.

Q Did these guards go over to the guard duty without any superior?

A No.

Q Who went along with them?

A The guards had their non commissioned officers with them, of course, an official of the guard and a deputy official of the guard.

Q Did those gentlemen also have exemption from the company temporarily?

A Yes.

Q Who did this guard duty, or did you have another expression for that?

A I don't understand you there.

Q Who had the right to give orders to this troop which went off to do guard duty?

A The leader of the Security Service was actually the one who gave the guard troop orders.

Q Who had this duty?

A The guards who were doing guard duty.

Q Mr. Buddensieg, you just said that the guards, when they went off to the guard duty, had certain non commissioned officers or leaders with them from whom they took their orders.

A I believe we'd understand each other better if I tell you that the actual guards were not enough to cover all the spots which had to be guarded, including the

stone quarry, etc., and so there was a chain of guards set up and they, of course, had their own non commissioned officers with them.

Q What happened when a prisoner tried to escape?

A The guards, the regular guards or these guard troops, whichever it was, received a written instruction document from the Commandant, and this document was sent to all of the guard companies, and in this special guard document were contained all the regular instructions of the guards in the Army pertaining to officers, non commissioned officers and soldiers who had guard duty, how they should behave. In regard to prisoners escaping, there was one paragraph in this document. According to this paragraph it stated that a guard had a right to make use of his weapon against a prisoner after he had warned the prisoner three times by calling to him, if the prisoner were attempting to get closer to the danger area or the wire.

Q You just mentioned a "danger area." What do you mean by that?

A In front of the wire or in front of each individual spot which was not enclosed by wire, there would be a so-called "danger zone". I estimate its breadth by about four or five meters, and the boundary of this danger area was marked by little wickets about three-quarters of a meter high, and on a tablet on these wickets was written, I believe it was in German, Polish and Russian, the words, "danger zone". Whenever a shot was fired in this chain of guards, it meant about the same thing as a revolution.

(Suddenstieg-direct)

I mean to say by that, as soon as a shot was fired, all the prisoners who were in the camp or the stone quarry outside of their work shops, would immediately fall flat on their faces and the guards who were not on guard duty had to immediately fall out and fall in. The leader of the Security Service was with the guard and the Commandant of the camp was immediately notified where the shot had been fired. He was notified through the chain of guards. The message would be passed on from one to the other. The Commandant of the camp, his Adjutant, and an official immediately went as fast as possible to the spot where the shot had been fired. And the spot where the prisoner had been stopped, where the prisoner had been trying to escape, that spot was thoroughly searched, investigated. The guard was immediately relieved of his duties by another guard and they had to immediately make an exact sketch of the spot and the guard would immediately be given an interrogation, just like the guard who had been to his left and his right. And on some occasions they'd even take his picture. The report of this interrogation would be sent by the Commandant of the camp to the higher police and SS authority and they had to decide whether or not charges would be raised against this guard who had fired the shot.

Q Did that occur in every case?

A That occurred in every case and this interrogation would always be carried out in the Command Headquarters either by the Adjutant or by the court official who appeared later in the story.

Q What did you have to do with such an incident, as Commandant of the guard company?

A As leader of the company I didn't have anything to do with the affair at all.

Q What part did you play in making up reports about it?

A I didn't take any part.

Q Did you have to make any decision in regard to the guard who fired this shot? Did you have to punish him in any way or make a decision whether he'd be relieved of his duties or anything else happen to him?

A No.

Q Actually, then, what did you have to do with any incident in which someone was shot to death?

A Practically nothing at all.

Q How many people were shot to death at that time when you were leader of the guard company?

A After thinking it over very carefully I believe that in the years '42 and '43, up until '44, toward the end of '44 I was practically not there, only eight to ten cases of shooting occurred among the members of the guard company.

Q You mean with your company?

A Yes. I don't mean to say that all these people were shot to death, I meant to say that the guards on these occasions made use of their fire weapons. Neither the guards nor I, as leader of the company, could ever find whether the man against whom the shot had been fired died of it or not.

Q Mr. Buddensieg, do you still remember the written testimony you made?

A Yes, unfortunately.

PRESIDENT: Dr. Wacker, the sworn statement of this particular witness has already been received by the court in evidence and the court desires to avoid any repetition unless you feel it necessary to go into certain points. The court recalls that was Prosecution's Exhibit 56.

DR. WACKER: I consider it necessary because the statements in this affidavit don't exactly cover the testimony which the witness has said today and I want to ask the accused to make an explanation about that.

PRESIDENT: The court will be glad to grant you permission to proceed. The only thing is, the court doesn't want any undue repetition. The court will grant you permission to proceed in order to point out any discrepancies you see fit or anything else you see fit, but we want to avoid repetition.

Q Mr. Buddensieg, in your written affidavit you mentioned that during the five years you had duty there, that not more than one hundred prisoners were shot to death and now you mention eight to ten cases. Will you please explain this discrepancy?

A When I was interrogated here on the 14th of April, I had the impression that the following facts were true.

PRESIDENT: Let's clarify that date - April when?

ACCUSED: The 14th of April 1946, in this year,-and I believed that I had found out, that among the documents which were there, that certain documents in regard to my interrogation were missing, the interrogation in Natternberg, were missing, Camp 5. These missing

documents were a justification for me in regard to a severe mistreatment which I received in the Camp of Natternberg.

MR. BERKOWITZ: If it please the court, I object to anything that might have transpired in Natternberg. The defendant has signed this sworn statement. Any prior statements have no concern to the court, they have never been offered in evidence and it is not the intention of the prosecution to offer them in evidence at the present time.

PRESIDENT: Can the Assistant Prosecutor assure the court there is no link between those two different statements?

MR. BERKOWITZ: What the witness says about Natternberg has no relevancy because there is nothing to indicate any attempt was used by force or any other means were used to extract this information from the accused. That was not proper and unless he has such testimony, whatever happened would be irrelevant. Any prior statement he made is not being offered and it is not intended to offer it.

PRESIDENT: In your statement with reference to the possibility of using force or not using force, to which statement are you referring?

MR. BERKOWITZ: I know nothing about the circumstances surrounding any statements made prior to the 15th of April, made here. That is the statement that was introduced, but I do say that any information or any evidence concerning any other statement is irrelevant, unless he wants to use evidence of force concerning the statement that is already in evidence.

PRESIDENT: But you haven't answered my question yet, Mr. Berkowitz. Your reference to the lack of force referred to what statement?

MR. BERKOWITZ: The one that is in evidence, sir.

PRESIDENT: The court is going to give you an opportunity to answer the objection, Dr. Wacker. There has been an objection to your last question.

DR. WACKER: I'm going to ask that the accused be given the opportunity to show what connection this affidavit which he signed here, has with the statements he made in Nattermberg.

PRESIDENT: Just a minute, Doctor. We have an objection before the court at the present time. The court will take a moment's recess in which to give the defense counsel a chance to get together.

(Thereupon the court took a recess in place.)

PRESIDENT: The court will come to order. Dr. Wacker?

DR. WACKER: I would like the witness, Buddensieg, to have a chance to testify about this because he can explain that force was put upon him in obtaining this statement in Nattermberg and this had an influence on the statement which is now before the court.

MR. BERKOWITZ: Unless there is some direct evidence that some force of some sort or some promise, some inducement, was resorted to in obtaining the statement that is in evidence, anything that might have happened in Nattermberg is irrelevant and not

admissible as evidence. If the witness has something to say about the tactics employed here when this statement that is in evidence was obtained, that would be relevant, but in the absence of that, anything that happened at Natternberg is incompetent.

PRESIDENT: Mr. Berkowitz, what the court wants to know is whether or not that previous statement was in the hands of the prosecution during the investigation of this particular individual and at the time this particular statement was made, on April 15, 1946.

MR. BERKOWITZ: Yes, sir. That statement was in the hands of the prosecutor and the interrogators, but in the absence of any evidence that any undue force was used or undue means were used to obtain a corroboration of that statement, such evidence would be incompetent. If the witness can state that he was forced to corroborate or was not permitted to change or not permitted to make a free, unforced statement, then that might be good evidence, but in the absence of that, what happened in Natternberg would have no relevancy to the statement that is in evidence. If he could show that the statement which was presented was written in any manner that was other than free and unbridled, then it might be competent but what happened at Natternberg has nothing to do with what happened at Dachau when he made the statement. As a matter of fact, he was given every opportunity to alter the statement made at Natternberg and did alter that statement, and the statement was presented as a result of a free and unbridled offer on the part of the witness to tell exactly what happened.

(Buddensieg)

PRESIDENT: Just a minute, Mr. Berkowitz. Let's be concise. What the court wants to find out is whether or not this previous statement formed any basis whatsoever to the statement made by the accused who is on the stand at the present time on April 15, 1946. Did it form any basis whatsoever?

MR. BERKOWITZ: It formed no basis on the part of the witness himself because he made a brand new statement which differed considerably from the one made at Nattermberg. He was given an opportunity to state it anew.

PRESIDENT: But that previous statement was in the hands of the prosecution at that particular time in April 1946?

MR. BERKOWITZ: Yes.

PRESIDENT: Was it a sworn statement?

MR. BERKOWITZ: If the court will bear with me just a moment, I will see. No, sir.

PRESIDENT: Objection of the prosecution is overruled. The court will take a half hour recess.

(Whereupon the court recessed at 1500 hours)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Colonel Denson and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense are present; all of the defendants are present, with the exception of Olschewski, Oswalt, Lipinski, and Pens, who are sick and whose interests are being taken care of by counsel, and Dr. Schmitz, who is conferring with counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court notes that counsel for Dr. Schmitz is in court at the present time.

MR. HALL: Dr. Schmitz is examining some records at my request and suggestion.

LUDWIG BUDDENSIEG, an accused, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY DR. WACKER:

Q Mr. Buddensieg, please explain the connection of your interrogation in Nattermberg and your statement under oath given in Dachau.

A I beg the high court's pardon if I talk about this at all. It was not my intention to mention this.

PRESIDENT: Make it concise and to the point.

A When I was interrogated on the 6th of August, 1946, I was severely mistreated in Nattermberg.

Q 1946?

A 1945. This mistreatment was administered to enforce a signature on my part. That succeeded. After a starvation period of

about a month and a half I weighed a little better than a hundred pounds. After the mistreatment I sent a letter over First Lieutenant Wagner, the camp commander, to the commander of the C.I.C., First Lieutenant Crapp, in which I informed him of the fact that I had annulled the signature put by me under the document. After my interrogation I handed over the statement that had been made under oath by an inmate. These two documents, so far as I know, were not in the files when I was interrogated here on the 14th and 15th of April of this year. Under the impression of these documents being missing, and being in fright or being frightened after having gone through the first interrogation, I made the statement that within five years less than one hundred prisoners had been fired at by my company while they were escaping. This is in brief words the reason why this one phrase is contained in the document of interrogation taken here.

Q How many prisoners were shot to death from the 1st of January, 1942, until your departure from Flossenburg?

A I can't tell you that exactly. I can only tell you that in the year 1942 approximately eight, and in 1943 approximately two, and that might be high, had been shot at, fired at, by my company while they were escaping.

PRESIDENT: The reporter will read that statement again, please.

(Whereupon the reporter did as directed.)

Q Did the other guard companies have about as many?

A It could have been the same with the other guard companies.

Q Were you told when you were interrogated here what your guilt was as far as this particular case is concerned?

A I believe that I can state that I was confronted with the fact that these prisoners had been killed.

PRESIDENT: Doctor, the court desires you to clarify one point the witness has just made. He has made a statement to the effect that so many prisoners were shot or fired at. There is a great deal of difference between those two terms.

Q Were these prisoners shot to death or just shot?

A Shot.

Q Did you find out how many were shot to death and how many were shot?

A No.

Q Why not?

A For one thing, because I was not present when these escapes were attempted, and I was doing duty with my company. The guard who fired the shot could not know that either, because he was relieved immediately. A statement of that sort could only be made by the doctor who examined the man, because the man who had been shot was taken to the prisoners' hospital.

Q Did you not hear about the records or statements that were taken?

A No.

Q Did you not find out what was reported to the SS and police court?

A No.

Q Did you find out what decision was made by this court?

A Yes, off and on I heard from the accused guard that they had been acquitted because they were acting according to orders.

Q Did you receive a report from the court?

A No.

Q Were you told upon your interrogation here in Dachau what you should have done in order not to be subject to punishment?

MR. BERKOWITZ: That is objected to, sir. I am afraid I do not understand the question, but if I do understand it it is irrelevant and incompetent.

PRESIDENT: The objection is sustained. It is also a leading question, Doctor.

QUESTIONS BY DR. WACKER:

Q Mr. Buddensieg, what did your job as company leader consist of?

A I believe I have already stated that.

Q I ask you to explain whether you could act on your own initiative according to the guard orders or whether you had definite rules to go by.

MR. BERKOWITZ: That is objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q Could you prevent the actions taken by your guards?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained. Just ask him to explain.

QUESTIONS BY DR. WACKER:

Q Mr. Buddensieg, explain to the court what you could have done to prevent these shootings that occurred?

A I can't give any answer to that. Nothing, because I couldn't act on my own.

Q What do you mean by that when you say you couldn't act on your own?

A The shooting order was part of the orders given to the guards as to their behavior while on guard or while on the towers, and company leaders as well as platoon leaders would instruct their men about these orders. These general orders or guard orders were issued by the camp commander and were in connection with the army orders. As far as these guard regulations were concerned, they mainly stated and the men were mainly instructed that they were not to sleep while on guard or smoke or sit down or set aside their weapon, and part of these

instructions concerning guard regulations dealt with the attempted escape and use of weapon. These instructions were scheduled mainly when new guards arrived--new troops arrived.

Q How often were the guards instructed?

A These instructions were given according to a set schedule, but mainly when new troops, new guards, arrived.

Q Did that only happen once, or several times?

A That was done repeatedly, because there was a certain paragraph in the guard order concerning itself with the mistreatment of prisoners. I myself--and I believe this goes for the other company leaders, too--mostly didn't do anything more often than to instruct the men about mistreatment of prisoners. Each guard who entered the guard service in a concentration camp signed a document according to which the mistreatment of prisoners was forbidden. I might say about myself that I instructed my men about this particular topic very thoroughly.

Q Mr. Buddensieg, you stated that these guard orders were issued by the camp commander in accordance with the army guard orders. Did these guard orders issued by the commander deviate very much from the army guard orders, and if so how much?

A According to my memory these guard orders deviated only in those particular points pertinent to these special conditions in a camp of that sort. Other than that they were the same instructions as given in the army pertaining to guards making use of their weapons upon an escape by a prisoner.

Q Mr. Buddensieg, did a guard who used his weapon receive a compensation or was he punished?

A If a man had used his weapon according to orders he was neither punished nor did he receive a compensation. For the duration

of the activities of Lieutenant Colonel Kunstler, camp commander, until the Fall of 1942, this camp commander rewarded the men who had made use of their weapons according to orders with a furlough.

Q What connection did you have with this furlough?

A I didn't have anything to do with it, because Lieutenant Colonel Kunstler was a very impulsive person and spontaneously gave these furloughs. Not only in the cases of these furloughs, but he was the same way in other cases. So when he would have the sight of any of these guards he would immediately go up to them and grant them these furloughs. The company leaders only heard about this furlough when the man returned from his interrogation by the camp adjutant. So far as I was concerned I neither recommended such a furlough nor helped someone to get it.

Q Who made recommendation for the furlough?

A No one applied for it. The camp commander spontaneously granted it.

Q Did you ever apply for such a furlough?

A Never. I never thought of that.

DR. WACKER: No further questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q You stated that you handled the paper work for the company, is that correct?

A Yes.

Q Was the granting of furloughs part of the paper work of the company?

A For the duration of the activities of Lieutenant Colonel Kunstler in Flossenburg furloughs were only granted and permission for furloughs was only given by that person.

Q You mean to say that every furlough granted to a member of that company was granted by Kunstler and did not go through the company commander?

A Yes.

Q You spoke about the first statement which you gave at an earlier date and about the statement which you made here in Dachau. In that first statement you said, did you not, that 350 to 400 inmates were shot by your company alone; is that correct?

A I did not state that, but I signed that, being under duress by mistreatment.

Q Did you state that here in Dachau?

A No.

Q You changed that here in Dachau?

A In the record, yes.

Q And you changed that figure to one hundred; is that correct?

A I have already given the explanation how this statement was made about the hundred, respectively, less than a hundred here.

Q Will you answer my question, please? Will you read the question, Mr. Reporter?

(Whereupon the question referred to was read by the reporter, as follows:)

"And you changed that figure to one hundred; is that correct?"

A Yes; to less than one hundred.

Q Now, the statement which you made previously in the body of that statement contained about five typewritten lines; is that correct?

A I believe so, yes.

Q And the statement which you made here in Dachau covered about forty or over forty typewritten lines; is that correct?

A That can be possible, yes.

Q Now, what force or what threats were used here in Dachau to impel you to prepare this sworn statement in your own writing? I refer to the statement which has been introduced as Prosecution Exhibit No. 56.

A I unfortunately have to state that in Dachau also certain force was used.

Q Will you describe that force?

A I wanted to state that less than one hundred prisoners were incapacitated by use of firing weapons. Upon that I was told by Mr. Berkowits, killed; and that if I would not sign that then Mr. Berkowits said that he had other means to get it out of me.

Q I said that?

A In this sense, yes.

Q Will you repeat my words?

A No.

Q Who was in the room when you wrote your statement?

A I don't remember that.

Q As a matter of fact, were you not alone most of the time when you wrote that statement?

A I believe you were in the room with me alone.

Q Did I not leave you alone in the room and just come in to find out if you were through?

A I can't remember that.

Q Will you try to remember?

A I can't state exactly.

Q Now, these guards were not only posted about the protective custody camp, they were also posted around the courtyard, were they not?

A Yes.

Q Were you not familiar with the fact that at various times prisoners were chased to the wire by capos and SS men and were then shot by the guards from the towers?

A Nothing of that sort became known to me.

Q Did you ever make any attempt to find out why these prisoners were being shot?

A What prisoners?

Q The prisoners who were shot.

A Because they escaped or attempted to escape.

Q You were in charge, you said in your statement, with the instruction of the guards. Did you give them any instructions as to how to behave if prisoners were chased to the wire?

A There was no necessity for that, because I hadn't heard anything about prisoners running into the wire.

Q Did you ever question your guards as to the circumstances of these alleged escapes?

A I took it as a natural thing that the guards--the first guard of my company--would immediately tell me about anything that had occurred and which was not in accordance with the guard instructions.

Q Will you answer my question, please. Will the reporter please read the question.

(Whereupon the reporter read the question, as follows:)

"Did you ever question your guards as to the circumstances of these alleged escapes?"

A No.

Q Did you ever investigate yourself as to the nature of these escapes or alleged escapes?

A No. That was not necessary.

Q In your instructions to the guards did you instruct them to shoot prisoners as soon as they came within four or five meters of the wire? Is that correct?

A No. The instructions read like this: to make use of the weapon; not to shoot.

Q Well, did you instruct your guards as to what you mean by "make use of the weapon"?

A To use a weapon; not to shoot to death but to shoot.

Q Well, that is what I asked you. Did you instruct your guards to shoot prisoners when they came within four or five meters of the wire?

A That is what I just stated.

Q Well, will you answer my question yes or no?

A The men were instructed according to the guard orders--guard instructions--that they would have to make use of their weapon, respectively, to shoot, upon anyone approaching the wire, respectively, entering the danger zone.

Q All right. Did you ever instruct your guards not to shoot at prisoners who came within four or five meters of the wire if they were being chased to the wire?

A That wasn't even the question.

Q You mean you didn't even think about instructing them to that effect?

A Because that was not necessary.

Q Well, it was being done. Men were being shot who were coming within four or five meters of the wire after being chased into the wire. What were your instructions in regard to cases of that sort?

MR. McKAY: That is objected to as being argumentative and as assuming facts not brought out in this witness' testimony.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. BERKOWITZ:

Q What were your instructions to guards concerning prisoners who came within four or five meters of the wire by reason of being chased there?

A This instruction wasn't necessary at all, because nothing became known to me about any prisoners being chased into the wire. I would have added such an instruction if only a single case had been known to me.

Q Am I to understand that you gave no instructions to cover a case of that kind?

A As I stated, I didn't think that this kind of instruction was necessary, because it was unnecessary.

Q You stated that a good many of these men were subjected to interrogations after they had shot the prisoners who they said attempted to escape. Have you heard of any of these cases where these men who did the shooting were not acquitted?

A I very seldom heard anything at all about these accusations upon their return.

Q The men returned to duty?

A Yes.

Q Did you ever hear of any of them being sentenced for any such shooting?

A No, not that, but that they were punished by the camp commander--punished whenever they had endangered other prisoners or civilians by their shooting.

Q But they were never punished for the shooting of the prisoner; is that correct?

A No.

Q In answer to a question of defense counsel concerning the shootings subsequent to January 1st, 1942, your first reply was "I can't say exactly how many were killed." And subsequently you said that none of them were killed. Which one is correct.

A I don't think I stated that.

MR. BERKOWITZ: We can check the record if the court wishes me to have the opportunity to check the record on that.

PRESIDENT: If you desire to check the record.

MR. BERKOWITZ: The witness denies that he made a statement which I have in my notes word for word.

PRESIDENT: The court will grant you a short recess to check the record.

(Whereupon the court recessed in place.)

(Whereupon the court reconvened at 1620 hours.)

PRESIDENT: Court will come to order.

CROSS EXAMINATION (continued)

QUESTIONS BY MR. BERKOWITZ:

Q Will the reporter please read the part of the record which covers the question.

(Whereupon the reporter read the portion of the record referred to, as follows:)

"Q. How many prisoners were shot to death from the 1st of January, 1942, until your departure from Flossenburg?

"A. I can't tell you that exactly. I can only tell you that in the year 1942 approximately eight, and in 1943 approximately two, and that might be high, had been shot at, fired at, by my company while they were escaping."

A That is correct.

Q Is that correct?

A Yes.

Q Then you do not know how many were killed subsequent to January 1st, 1942?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect. Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Buddensieg, is it an escape if a prisoner is being driven into the wire?

A No.

Q Mr. Buddensieg, do you remember what you testified to in your statement that you made under oath?

A Yes.

Q To what period of time does the statement pertain which reads that less than one hundred prisoners were shot or shot to death?

A From the 30th of August, 1939, until the 15th of March, 1944.

Q Does this number pertain to your company or to all guard troops?

A To all guards.

Q To all three companies?

A Yes.

DR. WACKER: Thank you.

PRESIDENT: Recross.

MR. BERKOWITZ: No further questions.

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place.)

(Whereupon the court reconvened at 1630 hours.)

PRESIDENT: Court will come to order. Recross examination, Mr. Berkowitz.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Buddensieg, how were these wire fences constructed?

A Generally it was a double fence. Both fences were about one meter and a half to two meters apart. Just about like here in Dachau.

Q Was the fence made up of wire strands?

A Yes. Just exactly like here in Dachau.

Q Was that barbed wire?

A Yes.

Q How high was the fence?

A Two and a half to three meters, approximately. Just about like these fences here.

Q And how far apart were the strands of wire?

A All I can say--and I believe I can state that--is that they are not any different than the ones for us here.

Q Will you please answer my question? If you do not know exactly would you please approximate it?

A I assume that these single wires in the horizontal position were 30 to 35 centimeters one from the other.

Q And your instructions were that if a man approached within four to five meters of that double fence that he was then to be shot at by the guards; is that correct?

A Those were not my instructions. The guard orders read that whenever a man would approach the wire fence and enter the danger zone the guard would have to holler at him three times.

Q You instructed the guards concerning their duties, did you not?

A Yes.

Q When did you instruct the man to shoot at the prisoner--what point?

A I can only give the same answer as I have given.

Q Suppose a man entered the danger zone and just stood in the danger zone. What were your instructions concerning that?

A Not only this case happened, but it happened that prisoners worked in between both fences to mow the grass there and were not shot to death.

Q That is where they were assigned to that work; is that correct?

A Yes.

Q Suppose a man was not assigned to cut grass and came within four meters of the wire. What were your instructions as to that?

A The instructions were so simple and clear that every guard without a doubt had to comprehend them.

Q Was the guard to comprehend that he was to shoot at every prisoner who came within four meters of the wire?

A The circumstances in a camp mainly like Flossenburg, where there was a valley and mountain, would vary from case to case, so that only a general instruction could be issued. May I be allowed to assure the court that if I ever had heard of any case during the time that I was in Flossenburg leading the first guard company that a man unrightfully would have shot at a prisoner I would have not hesitated one moment to report him to the camp commander.

Q And what attempts did you make to find out whether he was shot at rightfully or unrightfully?

A To try that was not necessary, because this would be brought out during the interrogation handled by the camp adjutant and also by the clearance later to be obtained by the SS and police court.

Q Am I to understand that you relied upon the outcome of the interrogation that was conducted by the command section in order to determine whether the man had shot rightfully or unrightfully?

A No.

Q Well, what did you do on your own?

A I have stated already that it was not necessary for me to conduct an investigation on my own part, because I never heard of the cases in question here--the cases which have been mentioned here.

Q Did you make any attempt to find out?

A I beg your pardon, but I have answered several times that it was not necessary.

Q Then you did rely on the outcome of the investigation conducted by the command section; is that correct?

A No, No. The guards in the chain of guards as well as the men in charge of the guard had the duty to report to the commander any kind of illegal action, so that I would haveheard about any such case.

Q Did you instruct the men and tell them what was an illegal action?

A Yes.

Q What did you tell them was an illegal action?

A As I explained before the landscape was a hillside landscape, and therefore the territory could not be looked over easily, so that I issued instructions as to how use of the weapon should be made, and that concerned also the prisoners who were not connected with any such thing--that they should not be endangered--mainly the stone quarry. The view the guards had mainly of the stone quarry was obstructed so much because it was uphill and downhill territory. Sometimes they were standing below and had to look up. That required all their watchfulness to carry out their proper duties as guards.

Q Now, which point did you tell them to shoot the prisoners at?

A I believe I have stated before that whenever a prisoner would approach the wire fence, respectively, the danger zone, and be in the danger zone, that the guard would have to shout at him three times, and if the prisoner would not listen to that that the guard would have to makeuse of his firing weapon.

Q And then he shot the prisoner while he was in the danger zone; is that correct?

A If the man wouldn't listen to the three shouts it was his duty to fire.

Q Were there any gates or doors or openings in these wires through which a prisoner could escape easily?

A Oh, yes, there were quite a few spots where there was no wire at all.

Q Will you step up to Prosecution Exhibit No. 5 and show where the openings were?

(The accused did as requested.)

A In the year 1942, for example, as far as that can be shown on this map, there was a chain of guards from this point (indicating) on down, way down here around the settlement, and there was no wire fence there at all. I believe I can state that it was definitely like that in 1942 still. In the winter when they had high snow, sometimes three quarters of a meter or one meter high, the chain of guards was posted along here (indicating).

PRESIDENT: Just a minute. Let us clarify that.

MR. BERKOWITZ: May the record indicate that the witness has drawn a line across the lower part of Prosecution Exhibit No. 5 and to continue upward to the left of a group of blocks to the left of the block marked No. 10 in black; and that he has also indicated a line below the lines indicating the fence as the guard chain during the snowy period.

MR. McKAY: That both lines begin at the lower right-hand corner with the tower which has been identified as located on the fence which crosses the prison compound enclosure on Prosecution Exhibit No. 5.

A (continuing) Later on also from this point (indicating)-- but at least from this point on, there was no wire fence down to the road leading to Flossenburg.

MR. BERKOWITZ: Let the record indicate that the witness drew a line from the block at the lower right-hand corner of the fence enclosure left across Prosecution Exhibit No. 5 below the block marked No. 8 in black and continuing onward below the block marked

(Buddensieg - Recross)

No. 8 in black and continuing onward below the block marked No. 9 in black.

A (continuing) I only remember that a low wooden fence was built here in 1943 from the end of the garage to this building here.

MR. BERKOWITZ: Let the record indicate that the witness drew a line from the lower left-hand corner of the block marked No. 2 in black downward and toward the lower left-hand corner of the block directly below.

A (continuing) A wooden fence one meter high.

MR. BERKOWITZ: Both appearing on Prosecution Exhibit No. 5.

MR. O'CONNOR: I do not think that the record should show that a line was drawn. I think that another choice of words should be used, because it would indicate that a pencil line of some kind was drawn on that exhibit. It should state "imaginary line" or "indicated a line".

PRESIDENT: I believe you had better clarify that particular point.

MR. BERKOWITZ: The line referred to was an imaginary line drawn with a pointer held by the witness.

MR. McKAY: Let the record further show that the last two buildings indicated by the witness are to the left and outside of the area of the prison compound enclosure.

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Buddensieg, I ask you to show me what openings were in the fence around the protective custody camp.

A There were no holes in it, but here was one gate (indicating).

MR. BERKOWITZ: Let the record show that the witness pointed to the opening in the wire enclosure of the fence in the middle of the line which has previously been identified as the main entrance to the protective custody camp.

No. 8 in black and continuing onward below the block marked No. 9 in black.

A (continuing) I only remember that a low wooden fence was built here in 1943 from the end of the garage to this building here.

MR. BERKOWITZ: Let the record indicate that the witness drew a line from the lower left-hand corner of the block marked No. 2 in black downward and toward the lower left-hand corner of the block directly below.

A (continuing) A wooden fence one meter high.

MR. BERKOWITZ: Both appearing on Prosecution Exhibit No. 5.

MR. O'CONNOR: I do not think that the record should show that a line was drawn. I think that another choice of words should be used, because it would indicate that a pencil line of some kind was drawn on that exhibit. It should state "imaginary line" or "indicated a line".

PRESIDENT: I believe you had better clarify that particular point.

MR. BERKOWITZ: The line referred to was an imaginary line drawn with a pointer held by the witness.

MR. McKAY: Let the record further show that the last two buildings indicated by the witness are to the left and outside of the area of the prison compound enclosure.

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Buddensieg, I ask you to show me what openings were in the fence around the protective custody camp.

A There were no holes in it, but here was one gate (indicating).

MR. BERKOWITZ: Let the record show that the witness pointed to the opening in the wire enclosure of the fence in the middle of the line which has previously been identified as the main entrance to the protective custody camp.

No. 8 in black and continuing onward below the block marked No. 9 in black.

A (continuing) I only remember that a low wooden fence was built here in 1943 from the end of the garage to this building here.

MR. BERKOWITZ: Let the record indicate that the witness drew a line from the lower left-hand corner of the block marked No. 2 in black downward and toward the lower left-hand corner of the block directly below.

A (continuing) A wooden fence one meter high.

MR. BERKOWITZ: Both appearing on Prosecution Exhibit No. 5.

MR. O'CONNOR: I do not think that the record should show that a line was drawn. I think that another choice of words should be used, because it would indicate that a pencil line of some kind was drawn on that exhibit. It should state "imaginary line" or "indicated a line".

PRESIDENT: I believe you had better clarify that particular point.

MR. BERKOWITZ: The line referred to was an imaginary line drawn with a pointer held by the witness.

MR. McKAY: Let the record further show that the last two buildings indicated by the witness are to the left and outside of the area of the prison compound enclosure.

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Buddensieg, I ask you to show me what openings were in the fence around the protective custody camp.

A There were no holes in it, but here was one gate (indicating).

MR. BERKOWITZ: Let the record show that the witness pointed to the opening in the wire enclosure of the fence in the middle of the line which has previously been identified as the main entrance to the protective custody camp.

A (continuing) And there was a second gate here, but I don't remember just exactly the spot. At any rate, these buildings were not there at that time (indicating).

MR. BERKOWITZ: Let the record indicate that the witness has pointed to the middle of the wire enclosure line on the right-hand side thereof, and also to a spot approximately where the figure 6 appears in black inside the enclosure.

(Whereupon the witness returned to the witness stand.)

QUESTIONS BY MR. BERKOWITZ:

Q Was that a double wire around the protective custody camp?

A Yes.

Q And would a prisoner coming within three or four meters of that double enclosure be shot at by the guard in the tower?

A I did not quite understand that.

(The interpreter repeated the question.)

A As far as this wire is concerned, I believe that I have to give a negative answer, because the barracks were quite near the wire fence.

Q What was the width of the danger zone there?

A I can't say that. This thing as shown there is comparatively new and only completed shortly before my departure from Flossenburg.

Q Was there no wire fence around the protective custody camp when you were there?

A Yes, but it was a little different.

Q And how many towers did you have around the protective custody camp?

A The towers as shown here had already been completed and were used, except for one, but I am not sure about that. They were generally completed in 1943, in the Fall of 1943.

Q And how many towers were there in 1942?

A Approximately fourteen to fifteen towers were there, if I am not mistaken, in 1942. I stated before that there were approximately forty-five men in the guard, and that is about correct. Three times fifteen is forty-five.

Q Mr. Buddensieg, a prisoner approaching within the danger zone toward the fence around the protective custody camp would be shot at by the guard, would he not?

MR. McKAY: The question is objected to as being repetitious.

MR. BERKOWITZ: May it please the court, we have just had a new description of the situation as it existed around the protective custody camp.

PRESIDENT: The objection, Mr. McKay, defense counsel, is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Buddensieg, what were the possibilities of a prisoner escaping through that double barbed wire fence from the protective custody camp?

A I remember the case of one prisoner. I can't give you the year. As a matter of fact, we are only concerned with the possibility now. This prisoner jumped over the wire fence at night in slippers. At that time everyone was surprised how this prisoner, as fast as a monkey, got across that fence.

Q And were you surprised too?

A Definitely.

Q And that was an exceptional case that surprised everybody, including the com. and section; is that correct?

A Attempted escapes were exceptions anyhow.

Q Well, there were about a hundred of them at least, or approximately a hundred, while you were there, from your own company, were there not?

MR. McKAY: That os objected to as repetitious.

PRESIDENT: Objection sustained.

(Buddensieg - Recross)

Q What do you call unusual?

PRESIDENT: Just a minute. Are you referring to the previous question? The objection to that previous question was sustained.

MR. BERKOWITZ: No, the one before that, sir. The witness said that flights were unusual.

PRESIDENT: All right, proceed.

MR. BERKOWITZ: I will withdraw the question, sir.

QUESTIONS BY MR. BERKOWITZ:

Q Were shootings unusual?

A Shootings were definitely unusual. I stated before that whenever a shot was fired in the chain of guards that caused sort of a revolution.

Q That revolution resulted in the acquittal of the guard; is that correct?

MR. McKAY: That is objected to as argumentative.

PRESIDENT: Objection sustained. The court will adjourn until 9 o'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 5 November, 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on ..... 194 .....
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

Copy of above served on accused ..... 194.....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Pages 6121 - 6206 Incl.

Case No. .....

Prosecutor .....

~~*Summary~~
~~*Intermediate Military Court~~
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 5 November 1946
0900 - 1700 Hours

Reporter .....

~~Members of Court~~

WITNESSES:

LUDWIG BUDDENSIEG
HANS MONSKA
MAX EHSER
ERNST WAGNER
HERMANN PACHEN

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

5 November 1946 0900 - 1700 Hours Pages 6121 - 6206 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
LUDWIG BUDDENSIEG			6138		6121 6136
HANS [illegible]	6140		6155	6144 6151	6150 6152 6153
MAX EHSLER	6156				
ERNST WAGNER	6162	6169	6177		6172 6178
HERMANN PACHEN	6179	6201			

EXHIBITS

NONE

Take 575 - 1
Floss
McDonald
11-5-46

CAMP DACHAU, GERMANY
5 November 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Dr. Engelhorn, who is absent on business of the accused; all of the accused are present with the exception of Olschewski, Oswalt, Lipinski, Eisbusch, and Wurst, who are sick, and Pachen and Dr. Schmitz, who are conferring with counsel. Let the record further show that the interests of those named accused who are absent are being taken care of by counsel. If there are any spectators present in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: Mr. Berkowitz, had you finished with the cross examination?

MR. BERKOWITZ: No further questions.

PRESIDENT: The court understands you have finished, Mr. Berkowitz?

MR. BERKOWITZ: Yes.

PRESIDENT: Redirect?

DR. WACKER: No further questions.

PRESIDENT: Questions by members of the court.

LUDWIG BUDDENSIEG, an accused, resumed the stand and testified further through an interpreter as follows:

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL JACKSON:

Q Could a company commander of a guard company grant a furlough?

A For the duration of the activities of Lieutenant Colonel Kunstler in the fall of 1942 furlough was granted only by him. From then on it was up to the company commanders to grant furlough for men to go home or grant furlough in case of death.

Q If a furlough was granted by higher headquarters could the company commander refuse to grant it and disapprove of it?

A I can't say anything about that. It is possible. It happened frequently that recommendations for furlough--applications for furlough--were sent by relatives of men to the commander himself, and that the commander would grant these furloughs without the consent of the company commander.

Q What group of officers performed the duty of officer of the day?

A The leaders of the security service were the company commanders and platoon leaders of the guard companies up until about March or April of 1943. From then on noncommissioned officers took over the duties of leaders of the security service because no higher leaders were available anymore.

Q Were you ever an officer of the day of the guard?

A Yes, about every seven days.

Q Did these companies march on guard as a unit or was the guard made up of details from each one of the companies?

A The guard was taken from one company.

Q As officer of the day how often did you inspect your guard?

A According to a schedule issued by the commander, respectively, adjutant, the guard was checked during 24 hours. The time was prescribed by the commander.

Q While you were officer of the day were there any shootings by the guard?

A No.

(Buddensieg - Court)

QUESTIONS BY THE PRESIDENT:

Q You have mentioned that you were a company leader. Did you mean by that that you were the company commander?

A Yes. Chief of the company.

Q In regard to these furloughs: The soldier was furnished with a furlough paper, was he not?

A Yes.

Q Did you not have to sign that as company commander, irrespective of whether that furlough was granted by the camp commander or yourself?

A No. While Lieutenant Colonel Kunstler was there he or the adjutant signed the papers.

Q And your name did not appear upon that furlough paper at all?

A No.

Q Or your signature?

A Not during that time.

Q If any furlough was initiated by you your name would appear on there, would it not? And your signature?

A As I mentioned, during the time of Lieutenant Colonel Kunstler he was the one who granted the furloughs, and he approved the furloughs himself and signed the furlough papers--he or else the adjutant--because in this case the leader of the camp was not camp commandant but leader of the battalion.

Q I can readily understand why his name would have to be on there as approving it, but it is difficult to understand why your name was not on there as company commander--and your signature. Was that the usual procedure in the SS--for some officer to grant a furlough without paying any attention to a company commander?

A I stated yesterday that Kunstler was a man who acted impulsively and spontaneously, so that he didn't pay any attention to certain rights of the company commanders.

Q And when something like that happened you did not say anything; is that it?

A We couldn't say anything about it, because we would have violated discipline.

Q When any inefficiency or irregularity occurred on the guard were those matters reported to you by the officer of the day or the commander of the guard?

A Any irregularities had to be reported to the man in charge of the guards. He would in turn report it to the leader of the security service, and it was his duty to report it to the commander. It was up to the leader of the security service to inform the respective company commander about this report he had made to the commander.

Q In other words, you as company commander were informed when any irregularities occurred on the guard or whenever there were any signs of inefficiency on the guard; that is correct, is it not?

A Only partly.

Q Only partly? What do you mean by that?

A Not always. For instance, that a comrade who had been the leader of the security service would inform me that such and such a guard was asleep while on duty, another one smoked, and so forth.

Q Naturally that is a case that calls for disciplinary action. But let us take a hypothetical case: Suppose a man out of your company went on guard and he was not in a proper uniform, his uniform was not clean, he was not shaved, he needed a haircut, things of that nature. Were you held responsible for that as company commander?

A Yes.

Q And if a member of your company went on guard and he did not know his guard orders, were you held responsible as company commander?

(Buddensieg - Court)

A Of course.

Q In other words, what the court is pointing at is that you were responsible for the proper performance of guard duty on the part of members of your company; that is correct, is it not?

A As I stated, the guard orders were binding as far as instructions were concerned given to the men.

Q Just how much instruction did the members of your company receive about this matter of escaping prisoners?

A The instructions about the escapes were given within the frame of the general guard orders. As I mentioned, always when the company received new men.

Q Just what were the orders relative to firing on inmates with respect to the wire? Just at what time were the guards ordered to fire?

A The guard orders read if a prisoner approaches the wire, respectively, the danger zone, the guard has the duty to shout at him three times. If the prisoner does not listen to those shouts the guard has the duty to fire.

Q Was this danger line indicated on the ground?

A Yes.

Q How was it indicated?

A By signs three quarters of a meter high, 4 to 5 meters from each other, which ran around all the wire. That only concerned the guard chain--that is, the large guard chain--and the guard chain that was there during the day which connected the camp with the stone quarry. The prison compound itself didn't have any danger zone.

Q Were those signs connected by wire to indicate clearly a danger zone?

A No. Those were large signs easily recognizable for everyone. Outside of that small ditches had been dug from side to side, mainly in the stone quarry.

Q How far were those signs from the actual wire itself?

A I estimate up to 5 meters. That all depended on the territory. The territory varied there; that is to say, it was rocky, and for that reason and because the view was always obstructed the distance of the signs from the wire varied.

Q You testified yesterday that in five years time you had only been within the camp three times. What were you referring to by the term "camp"? The protective custody camp?

A In the prison compound after working hours.

Q What was that?

A After working hours.

Q You meant after working hours?

A After working hours.

Q I do not recall any testimony to that effect. Is that what you meant--after working hours? Is that the idea? In five years' time you had only been within the camp three times?

A I believe I stated three or four times.

Q You had guards performing their duty inside that camp, did you not, day and night?

A No.

Q You had no guards within the camp itself in your company?

A No. The guards were not allowed to be in the camp. It was forbidden for them to enter the camp, just as it was for me. They were outside of the camp in their guard towers.

Q They were never permitted within this camp; is that right?

A Yes.

Q You stated yesterday that you had never heard of an inmate being forced into the wire and as a result subsequently shot. Was that the case during the five years you were in Flossenburg?

A No such case became known to me, as I stated yesterday.

Q Not a single case in the five years?

A No.

Q As I recall you stated yesterday that every time a guard was tried for shooting a prisoner during the course of an alleged attempted escape the guard was always acquitted; is that correct?

A As often as I heard about it; yes.

Q You certainly heard about cases of members of your own company; did you not? Or did you not have any cases like that in your company?

A So far as I am informed nothing came from channels down to the company upon the return of the report from the higher SS and police leader. In other words, nothing became known to me through channels--through the camp commander--about any acquittals or punishment. At any rate, no case is known to me that any man in my company who had been arraigned for shooting at a prisoner while escaping had been sentenced.

Q You knew when one of the members of your company, a guard, was up for investigation for a shooting, did you not?

A Yes, I heard about that because my company had to send in a replacement.

Q Is that the only way you heard about it--when you had to send a replacement?

A Yes.

Q Was it not necessary for that soldier to report to some headquarters for an investigation?

A Yes.

Q And were you not told the result of that investigation of a member of your company?

A No.

Q You were not informed when any man was tried either; is that the case?

A That was all handled automatically. As soon as a man had been relieved he would automatically go to headquarters to make his report there.

Q If a man out of your company was tried and found guilty you were never notified?

A No.

Q Then you contend, Buddensieg, that there never was a man out of your company that was ever accused of shooting an inmate?

A Every one was arraigned.

Q What do you mean by that?

A Every guard who had fired from the chain of guards at a prisoner who escaped was accused.

Q How many men out of your company were actually accused of shooting prisoners, say during the year 1942?

A During my interrogation yesterday I stated that in two years, from about the 1st of January 1942 until the 15th of March 1944 about ten cases occurred.

Q Were those cases right in your company or in the camp?

A In the company.

Q In the company?

A Yes.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY LT. COL. SKIELVIG:

Q Buddensieg, how many officers in all did you have in the three guard companies?

A That varied. About six or eight.

Q Where did those officers mess most of the time? Did they have individual messes or did you have one large mess?

(buddensieg - Court)

A The officers ate together in the leader's home if they didn't live in the village.

Q What was the general topic of conversation during mealtime, as a rule? Was it business or was it outside interests or what?

A I can't say that because as of 1941 I did not eat in the leader's home any more because I and my family lived in the village.

LT. COL. SKIELVIG: No further questions.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q Did you ever see any mistreatment around that camp?

A No.

Q Did you ever hear of any?

A No.

LT. COL. BURCHAM: No further questions.

QUESTIONS BY LT. COL. SKIELVIG:

Q Buddensieg, yesterday you testified that any shooting in the camp by a guard was practically tantamount to a revolution as far as the excitement it caused; is that correct?

A Yes.

Q Well, with only six officers of the guard, do you mean to tell the court that you never discussed such shootings, that is, among you officers of the guard?

A I myself had very little connection with the other officers. I was in the leader's home almost never--at least very little--because after duty hours I was with my family all the time.

Q Did you ever have officers call when you discussed such cases as the ways and means of preventing future incidents of the kind?

A What cases?

Q Such things as shootings by the guards of the prisoners.

A The camp commander had duty assemblies from time to time in which all leaders took part. These meetings, respectively, discussions, discussed cases of the companies. However, as far as these discussions were concerned, they mostly dealt with the discipline--the keeping up of the order in the companies.

Q Were there ever any discussions of reports by SS spies within the camp concerning this matter of running prisoners into the wire?

A No. Nothing became known to me.

Q You never heard anything about any of this practice of running prisoners into the wire, either through your own guards or through any information you might have gained from the SS spies?

A No. I stated that yesterday already. That did not become known to me.

Q Buddensieg, as a good officer were you not particularly interested in knowing the exact cause of such incidents as these shootings? Did you not sometimes carry on your own personal investigations when you found you could not get your regular information through channels?

A I only took indirect part in this, because it was actually the duty of the leader of the security service whenever he was there and saw such a case or found out about it to make the necessary reports and give the necessary information about it. It was my duty as a company commander that whenever I found out about a case like that I would have reacted immediately and would have recommended to the camp commandant for necessary action.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q You said you were in the protective custody camp three or four times in five years after duty hours. How many times were you in there during duty hours?

A None.

Q Did you ever see a hanging in that camp?

A No.

Q Did you ever hear of one?

A Yes.

Q How many?

A Once a hanging became known to me in the year 1942.

Q Did you hear of executions by musketry?

A No.

Q Did you ever hear of an execution by a shot in the back of the head or neck with a small bore weapon?

A No.

Q Did you ever see that Russian prisoner-of-war camp inside the lager?

A No.

Q Did you ever hear of it?

A Yes. I know where it was because the chain of guards ran alongside of it.

Q Did you ever inspect the guards around the stone quarry?

A Yes.

Q Did you ever look in the stone quarry when you were inspecting the guards?

A That was very difficult, because the territory hardly allowed it.

Q What does mistreatment mean?

A Mistreatment to me is an act whereby a man is beaten so severely that he suffers.

Q Did you ever see a beating with a stick?

A No.

Q Did you ever hear of it?

A No.

Q Did you ever hear of the 25?

A Yes, yes. But that was before the 1st of January, 1942.

Q Never after that?

A No. If I remember rightly I believe it was in the year 1940.

Q How many did they administer after January 1st, 1942?

A I don't quite understand that.

Q Did they administer 5 or 15 or 50?

A I?

Q Well, yes; you.

A No, never. I don't know that.

Q You were not much interested in going into the inner workings of the camp, in other words. Is that the impression that you want us to get?

A No.

LT. COL. BURCHAM: No further questions.

QUESTIONS BY LT. COL. SMYLY:

Q You were at Flossenburg between four and a half and five years, were you not?

A Four years and eight months.

Q What was the camp commander's policy regarding shooting of prisoners? Was he strict on that? Did he want them shot or did he try to keep them from being shot or what was his general attitude about the thing?

A No. It was merely the interest of the camp commander that each guard did his duty when anyone attempted to escape.

Q As a matter of fact, you know that a good many people were shot and a good many died as a result of those shots there around the wire in Flossenburg, do you not?

A No. No case is known to me that a prisoner who had been shot while escaping died as a result of that.

Q As far as you are concerned there was no prisoner ever shot to death at Flossenburg by the guards; is that true?

A I can't say that.

Q In all the time you were an officer of the day and all the time you stayed at Flossenburg you do not know of a single case where a prisoner was shot to death by a member of the guard at Flossenburg; is that true?

A No, none.

LT. COL. SMYLY: Nothing further.

QUESTIONS BY THE PRESIDENT:

Q In the five years you were at Flossenburg you never saw a single inmate beaten or a single inmate mistreated; is that correct? In the five years you were there, and particularly between January 1st, 1942, and the time you left you never saw a single case. Is that the way I understand your testimony?

A During the five years I did see that someone received a slap on the ear or was pushed, but I didn't see any mistreatment, because my place of business was at a spot where nothing was to be seen. During the course of the day I either was in my company office or else I was with the chain of guards which had so little connection with the camp because of the obstructed view and the territory.

Q Did you or did you not feel that a slap on the ear was mistreatment?

A No.

Q And you never saw a single case of more severe treatment than a slap on the ear in all that time; is that right?

A That is correct.

QUESTIONS BY COLONEL JACKSON:

Q How many of your men received a furlough for using a weapon?

A That I can't say. That is out of my memory.

Q Some did though, is that not correct?

A Yes. By the camp commander.

Q Was this for shooting at prisoners who ran into the wire?

A No. As I stated yesterday, the camp commander acted impulsively and spontaneously, and he acted without regarding others at all and always on his own initiative.

Q Would you consider 25 blows administered on the horse as mistreatment?

A I can't say that. I didn't have anything to do with that.

Q I did not ask you whether you had anything to do with it or not. Would you consider it mistreatment?

A Without a doubt.

Q You have stated to the court that you know of no case of mistreatment within the camp; is that not right?

A The case of the horse and the 25 I saw in the year 1940, and those were things carried out according to duties by orders received from Berlin.

Q After January 1st, 1942, do you mean to tell the court the horse was never used?

A I can't say that. I don't know.

Q You have stated that no one was shot to death in the camp to your knowledge after January 1st, 1942; am I right?

A That I can't say, because I didn't have any connections to the camp.

Q Was there a crematory at the camp?

A Yes.

Q What was it for?

A To cremate bodies. While the camp was still small these

bodies were taken to Solp in Bavaria and were cremated there.

QUESTIONS BY THE PRESIDENT:

Q Did you ever hear of a man by the name of Koegel at Flossenburg?

A Yes.

Q Did you ever hear of a man by the name of Baumgartner at Flossenburg?

A Yes.

Q Did you ever see him?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently not. The court will take a half hour recess.

(Whereupon the court recessed at 1000 hours.)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all members of the court are present, all the members of the prosecution are present with the exception of Colonel Denson and Mr. Pinter who are absent on business of the prosecution; all of the defense are present, all of the accused are present with the exception of Olschewski, Oswalt, Lipinski and Neye who are sick in the hospital and Schmitz who is examining the records. If there are any spectators in the courtroom who expect to be called as witnesses, they will please leave.

LUDWIG BUDDENSIEG, an accused, resumed the stand and testified further through an interpreter as follows:

EXAMINATION BY THE COURT (Continued)

QUESTIONS BY THE PRESIDENT:

Q Now, Buddensieg, the court will give you an opportunity to make any explanations you see fit at the present time or make any additional statement. At the same time the court directs you to make it as concise as possible.

A I was drafted toward the end of August 1939 on the basis of an emergency draft law. I was drafted to do duty in Flossenburg, and at that time with a heavy heart I followed this order because I was engaged in a profession which I liked at that time. I liked my job because as an employee and director of this office for sick people I was in a position to help poor sick people. Then after a few months I took over the charge of a guard company in Flossenburg as chief of the guard company, and the only thing that I had to do with prisoners consisted of instructing the guards according to the guard's instructions. These guard instructions came from the commandant of the camp itself and were accessible to every guard. They served the purpose of instructing and teaching the guards and as far as I was concerned I had no power of giving orders in connection with these guard instructions.

(Buddensieg - Court)

PRESIDENT: Reporter, will you read that last sentence?

(Whereupon the reporter read the last sentence.)

PRESIDENT: Proceed.

THE WITNESS: According to my best knowledge and conscience I carried out my duties as leader of the company and it wasn't easy all the time because most of the time that I was there I had old men around me, men who ranged between the ages of 40 to 60 years. My main concern was to take care of the welfare of my company. I don't believe that I shirked my duty in that regard at all. I already said that I personally didn't have anything to do with the prisoners. It was impossible that I injured a prisoner in any way either officially or personally. That isn't the way I'm made. As time went on I saw that this job I had, this place where I was, and I had been ordered there, didn't correspond to my ability and my inner convictions and for that reason already early in the year 1942 I decided to get away from this job. As I already mentioned, it was impossible for me to achieve that through the ordinary chain of command so that I had no other choice. I had to appeal to the civilian authorities who knew about my civilian profession. It's too bad that it had to take so long. My efforts expanded themselves between March 1943 and March 1944 because I wanted to get out of this job much earlier than that. In the beginning of March I went back to my old profession, to my old job, with a happy heart and I was satisfied with it, and with all my heart I regret today that I ever was in a concentration camp and had to be there as a leader of a guard company. That is the explanation I wanted to make.

Q Do you have anything further to tell the court?

A No.

PRESIDENT: Are there any further questions on the part of the members of the court? Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q Why did this job of yours as company commander not agree with your inner convictions?

A Because of my age. I was already 55 years old and I did not believe that a man of my age should be put in such a job as that, and besides that as I have already emphasized so much, I did not feel that I was actually a soldier in the real meaning of the word and I was more bound to my civilian profession than I was to my soldierly service.

PRESIDENT: Any further question by any member of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Didn't you ever talk to other officers about the workings of the camp?

A Yes, from time to time.

Q What did you find out about the workings of the camp?

A I don't know exactly what you want to know there.

Q I mean with regard to beatings.

A We talked about the fact that beatings took place and discussed this matter outside of duty.

Q How were these incidents described to you? How were they pictured?

A As far as I know, the things in question there concerned orders or regulations or official orders which came from the commandant of the camp or from higher authority in Berlin.

Q What did your guard company have to do with executions?

A The guard troop didn't have anything to do with executions at all.

Q Were you informed about executions?

A No.

Q Did you find out about them?

A No.

Q Do you know how many executions took place starting the first of January 1942?

A No.

DR. WACKER: No more questions.

PRESIDENT: Recross examination.

MR. HERKOWITZ: No questions.

PRESIDENT: Any further questions on the part of the defense?

DEFENSE COUNSEL: No sir.

PRESIDENT: Does the court understand that the defence is finished with this particular witness?

DEFENSE COUNSEL: Yes.

PRESIDENT: The witness will be excused and resume his position in the dock.

(Whereupon the witness was excused and resumed his position in the dock.)

DEFENSE COUNSEL: The defense calls as its next witness, Hans Monska. May it please the court, at this moment I would like to withdraw Retzlaff for a few moment's counsel.

PRESIDENT: Very well.

DEFENSE COUNSEL: This witness has already been sworn.

PRESIDENT: Monska, the court understands that you previously appeared here as a defense witness.

THE WITNESS: Yes.

PRESIDENT: The court cautions you at the present time, Monska, that you are still under oath.

THE WITNESS: I understand.

PRESIDENT: Take the witness stand.

MR. McKAY: May it please the court, Colonel Wilson and I would like to take the accused, Retzlaff, for a conference.

PRESIDENT: The court has already ruled on that.

HANS MONSKA, called as witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION

DR. WACKER: I have called this witness be behalf of Number 7, Buddensieg.

QUESTIONS BY DR. WACKER:

Q Monska, what official job did you have in Flossenburg?

A I was the sergeant of the SS and top sergeant, active as top sergeant.

Q What did you have to do with the troop of guards?

A I had to divide up the different duties among the guards, and I had to see to it that the quarters were kept clean and kept in order. And I had to see to it that the people fell in on time for duty.

Q Who gave the guards instructions about the guard instructions?

A The chief of the company did that.

Q What company were you in?

A In the first company.

Q Who was the chief of this company?

A There were three chiefs, the first chief was Buddensieg.

Q During what period of time was he chief?

A I came to Flossenburg January 1942 and Buddensieg was already chief and I stayed in that capacity until the beginning of 1944 when he went away.

Q If you see Buddensieg, would you recognize him again?

A Yes.

Q Please point him out.

A There, with the number seven. (indicating)

DR. WACKER: Let the record indicate that the witness has identified Number 7 as Buddensieg.

Q Were you present when Buddensieg instructed the guards about the regulations of the guards?

A I was usually there, yes.

Q How often did such an instruction take place, instruction of the guards?

A It always happened at least once a week, if not more often.

Q Can you briefly describe to us the contents of such a guard instruction period?

A Yes, I can give that to you, briefly.

Q Please do it.

A Above all the guards were instructed how they should act as guards when they had guard duty; that they should not leave their place of guard duty; that they shouldn't talk to prisoners, and that they shouldn't commit any indiscretions against prisoners; they shouldn't give the prisoners anything and shouldn't receive anything from the prisoners.

Q What was told to the guards in regard to attempted escapes?

A It was emphasized if a prisoner tried to escape the guard should cry out "stop" three times, and a guard had an order to shoot at a prisoner then if the prisoner didn't stop.

Q When the guards went off on the guard duty for that period of time, from whom did the guards take their orders?

A As soon as the guards went off on guard duty they were exempted from the guard division, guard unit, automatically, and they took their

orders exclusively from the man who had charge of the guard, the leader of the security service and the commandant of the camp.

Q Mr. Monska, please describe the sequel of events after a guard had shot a prisoner who was trying to escape.

A If a guard shot at a prisoner who was trying to escape he would immediately be relieved of his duties according to an order of the leader of the security service and he immediately had to go from there to the commandant's headquarters and there there would be an interrogation about the surrounding circumstances and then he would go to the company and report it to the corresponding chief of the company.

Q What did the leader of the company have to do with the investigation which took place in the commandant's headquarters?

A As far as I remember, nothing at all.

Q Do you know the following chain of events after this investigation had taken place?

A I don't know exactly, but as far as I remember the people involved would have to write down their past history.

Q Monska; I am not talking about what the guard would have to do from then on but what the people in the commandant's office would have to do.

A The people in question who had shot at this prisoner would be as good as accused.

Q Where were they accused?

A I don't know. As far as I know it would go on to Nurnberg.

Q Do you know anything about what kind of decisions would be made then in regard to this matter?

A How do you mean that?

Q Did you ever see any such decisions?

A No, I never saw them myself.

Q Did you hear about them?

A Yes.

Q What did you hear?

A I heard that as long as Kuenstler was commandant of the camp everybody who had stopped a prisoner from escaping received leave, a special furlough, for this.

Q Who would approve this leave?

A It was always somebody from the commandant's office who had called up the company. It would be the staff sergeant of the commandant's office who would call up the company there and see that such and such a guard has special leave of duration 4, 5 or 6 or 7 days respectively.

Q From whom did this man get this furlough?

A From the commandant of the camp.

Q What did Buddensieg have to do with that?

A He didn't have anything more to do with it except to send the people off on their furlough.

Q In what years did this take place?

A 1942 until the beginning of '43.

Q. How long was Kuenstler in Flossenburg?

A I can't tell you any more exactly. I believe he left the beginning of '43.

Q How was this matter taken care of after Kuenstler had left?

A Everything was finished immediately. There wasn't any more furlough given.

Q Where were the guard units stationed in regard to the prisoners' camp? Were they inside or outside?

A They were outside of the prisoners camp. They had a special guard house.

Q What special instructions did the guards have in regard to entering the prisoners' camp?

A A member of the guard battalion had absolutely no gripe, no access to the prisoners' protective custody camp.

DR. WACKER: No more questions.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now, Monska, in his instructions to the guards did Buddensieg define what he meant by an escaping prisoner?

A You mean when a prisoner wanted to escape?

Q Well, you said that Buddensieg gave instructions about how the guards behaved when there was an escaping prisoner.

A Yes.

Q Now did he define what he meant by an escaping prisoner?

A Yes.

Q What definition did you get?

A He said that when a prisoner escaped you should cry out "Stop" three times loud.

Q When he said a prisoner escapes - did he ever instruct them concerning that?

A When he removes himself from his place of work where he is supposed to be and in an attempt to escape violates the chain of guards.

Q Well, did Buddensieg instruct the guards concerning prisoners who were attempting to escape and did he tell them when they were to be considered as prisoners who were attempting to escape?

A Yes, he also explained that.

Q Now what did he say in that connection?

A If he is running at a sharp pace toward the forest or some open terrain, then it is obvious that he is attempting to escape.

Q Was that left to the discretion of the guard?

A The detail leader was always there with every work detail.

Q Now are you referring in your present explanation to the prisoners who were engaged in working in the outside details?

A Yes.

Q Now what were the instructions concerning prisoners attempting escape, that is, concerning prisoners who were inside the protective custody of the camp or inside the quarry?

A There was a special safety border, safety boundary, drawn and it was always emphasized that if a prisoner approaches the wire he should be held back from there.

Q And how was he to be held back?

A By calling "stop, stop, go back, and so on."

Q Continue with your "so on".

A And then the capo's attention would be called and they would usually run over there and bring the prisoner back.

Q Do you know many cases where the capos ran after the prisoners and brought them back?

A I don't know of many cases. Most I know about it from hearsay.

Q Now do you know of any cases where the capos chased the prisoners into the wire?

(Monska - Recross)

A No, I know nothing of that nature.

Q Did you ever hear of such cases by hearsay of your own knowledge?

A I don't understand you there.

Q Well you said you heard, you know by hearsay that some capos pulled prisoners back from the wire. Do you know by hearsay of any capos who chased prisoners to the wire?

A No, I don't know of any such cases.

Q Did the instructions of Buddensieg cover any such case?

A I don't know.

Q Didn't you hear the instructions?

A No.

Q Then you don't know what instructions Buddensieg gave to the guards?

A Yes, I know about them because he read them out loud but I didn't read them.

Q Did you hear his instructions?

A Yes.

Q But you don't know whether his instructions covered any cases where the prisoners were being chased through the wire?

A No.

Q Now when you say "no" do you mean that you don't know about it or you don't know whether or not he gave such instructions?

A I mean to say that I don't know anything about that.

Q Now did you hear all of the instructions that Buddensieg gave or only the portions that he read?

(Monska - Recross)

A I heard the part which he read.

Q Now did he give any other instructions besides the part that he read?

A I don't know anything about that.

Q Then you don't know whether or not you heard all of the instructions?

A No.

Q And did you hear any instructions from Buddensieg to his guards at which point in the safety zone they were to fire at a prisoner they considered to be escaping?

A No.

Q Now you stated in your direct examination that after a guard had shot a prisoner he was interrogated by the commandant and then the commandant reported to the chief of the company, is that correct?

A Yes.

Q Did you receive those reports?

A Not personally, no.

Q Who received them?

A The leader of the company or the clerk, whoever happened to be there at the minute.

Q How were those reports made, by writing or by telephone?

A They usually came orally by telephone.

Q And you did know when such reports were made?

A Yes.

Q And you know the contents of these reports?

A No.

Q Now you say ~~Keunstler~~ KEUNSTLER did grant furloughs to guards who had shot at prisoners and the company was called and told to grant the guard the furlough. Now did you receive that request from Keunstler?

A Yes.

Q Who would make that request?

A The company was called and told to give the guard a furlough.

Q Who would call?

A That was the top sergeant of the commandant's headquarters.

Q What was his name?

A They changed very often. I can remember the name of one of them. His name was Nowitzki.

Q Was that a telephone call?

A Yes.

Q Did your office prepare the furlough papers?

A Yes. The furlough papers were fixed up by the company and the people were sent on their furlough according to whether they were indispensable or not for duty purposes.

Q Who would decide whether the man was indispensable or not?

A The chief of the company.

Q That was Buddensieg?

A Yes.

Q Who signed the furlough papers?

A The chief of the company also.

Q How many cases do you know of as having happened in the company between January 1, 1942 and March of 1944?

A It could have been four or five times.

Q Do you know how many shootings by guards took place in your company from January 1, 1942 to March 1944?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect examination.

(Monska - Recross)

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Monska, if a capo drives a prisoner against the wire fence is that an attempted escape?

A I never heard that a capo had ever driven a prisoner against the wire fence, and if such a thing had ever occurred it certainly could never have been an attempted escape.

Q According to the regulations which you know how should a guard behave in such a situation?

MR. BERKOWITZ: Objected to as repetitious. The witness has already stated he didn't know, he hadn't received any such instructions.

PRESIDENT: Objection overruled.

THE WITNESS: What was the question again?

QUESTIONS BY DR. WACKER:

Q According to the regulations and instructions which the guards had received how was a guard supposed to act in a case where a capo would drive a prisoner against the wire fence?

A As far as I could see he would never shoot at him.

Q I am coming now back to this matter of furlough. If the furlough were approved who instructed the soldier, the guard, that he had leave?

A The commandant's office.

Q Did the guard return to the company with the leave in his pocket?

MR. BERKOWITZ: Object to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q When would the man get his furlough?

A When they could fit it into his duties.

Q I mean when was the man told that he had furlough?

A Usually when he got back to the company and reported the incident that such and such a thing had happened, he always said that the commandant's office had promised him a furlough and besides that, the commandant's office usually called up the top sergeant of the company on the telephone and backed it up--verified this report.

Q Under those conditions could a man refuse to go on furlough from the company if he received it?

MR. EHRENWITZ: Objected to as calling for a conclusion on the part of the witness.

PRESIDENT: Objection sustained.

PRESIDENT: ~~MR. WACKER:~~ Any more questions?

DR. WACKER: No, sir.

PRESIDENT: Recross examination.

MR. EHRENWITZ: Nothing further.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Monska, just what were your duties in the first guard company?

A I was top sergeant, my rank was sergeant of the SS.

Q As top sergeant did you stand guard yourself at any time?

A No.

Q Did you have an opportunity to observe the performance of guard duty on the part of members of the first guard company?

A Yes. As far as I could see what was going on from where I was sitting in the clerk's office. I could see out across the yard over to the guard tower.

Q Did you ever see a member of the guard shoot an inmate?

A No, I didn't see that.

Q Never on any occasion?

A No.

Q How many times did that actually take place as far as the first company is concerned after January 1, 1942?

A As far as I can remember, four or five times.

Q Just what happened to the member of the guard who shot the prisoner?

A After the incident took place, as I already mentioned, he immediately had to go to the commandant's office.

Q Do you know whether or not a guard was ever convicted in a case of that nature?

A I don't know of any.

PRESIDENT: Any further question by any member of the court? Apparently not. Redirect examination.

MR. WACKER: No questions.

PRESIDENT: Recross examination.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Monska, between January 1, 1942 and March 1944 how many companies did Buddensieg have under him?

A As long as there was an official battalion commander there Buddensieg had charge of all three companies himself and acted as battalion commander.

MR. BERKOWITZ: No further questions.

PRESIDENT: Any further questions on the part of any members of the court? Colonel Jackson.

Take 576--17
Fless-AB

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL JACKSON:

Q When a guard was granted a furlough for shooting at a prisoner, who made out that furlough?

A The commandant's office. The commandant of the camp, KUENTLER ~~Kuentzler.~~

Q Who signed the furlough?

A As far as I know, the chief of the company.

Q If it was made out at the commandant's office how did it get to the chief of the company?

COURT INTERPRETER: You mean the leave papers?

COLONEL JACKSON: The furlough papers.

THE WITNESS: The papers were already fixed up and the company approved and turned over the leave papers and signed them.

PRESIDENT: Any further questions on the part of members of the court? Colonel Burcham.

QUESTIONS BY LT. COL. BURCHAM:

Q How much of this time between January 1, 1942 and March 1944 was there an actual battalion commander over this guard battalion?

A For a certain period of time, I can't remember exactly when it was, a certain captain of the SS, Becker, was put in there as battalion commander.

Q About how long was he there?

A I estimate about four months.

Q He was the only one?

A Yes.

LT. COL. BURCHAM: That is all.

PRESIDENT: Any further questions. Major Lanham.

QUESTIONS BY MAJOR LANHAM:

Q You said that as far as you knew the company commander signed these furlough papers. Now do you know for sure?

A Yes, and I would like to mention here that usually when a man had special leave it would be added on to his yearly leave.

Q Yes, but do you know of your own knowledge that the company commander signed the furlough papers in the case where a guard shot at a prisoner?

A I believe, yes.

Q Do you believe that or do you know it?

A I believe it.

Q Then you do not know it, is that correct?

A No.

LAW MEMBER: That is all.

QUESTIONS BY LT. COL. SMYLY:

Q Were you not 1st sergeant there in that company?

A Yes.

Q Was it not your responsibility that these papers were properly made out?

A I myself didn't have anything to do with the papers directly. There was a special clerk who did that.

Q I ask you, was it not your responsibility that papers were properly made out?

A Yes.

Q Well if they were properly made out you had to know who signed them did you not?

A Yes.

Q Well now, do you or do you not know who signed those papers?

A As I already said, I thought that Captain Buddensieg had signed these papers but I don't know whether he always did it or not.

Q Did he ever do it?

A Yes, when he was there he signed all the leave papers, the furlough papers.

Q Are you sure of that?

A Yes.

LT. COL. SMYLY: Nothing further.

PRESIDENT: Any further questions on the part of members of the court? Colonel Skielvig.

QUESTIONS BY LT. COL. SKIELVIG:

Q Monska, are we to believe that during this period from January 1, 1942 to March 1944 that Buddensieg commanded all three companies with the exception of the four month period during which Captain Becker commanded?

A He didn't actually have charge of all three companies but he was the oldest in rank, the oldest, the senior officer there and he would pass on orders to the other leaders of the companies which he himself had received from the commandant.

Q He actually passed on orders then to the other three company commanders during this period, is that correct?

A Yes.

Q During that period in which he was in charge of these three companies, how many occasions do you remember of guards having shot inmates who were trying to escape?

A I don't know anything about other companies. I never paid attention to that.

Q Did you ever hear anything about them?

A Yes.

Q What did you hear?

A I heard that here and there a prisoner had been shot at when he was attempting to escape.

Q Approximately how many times did you hear of such incidents?

A I can't remember any more.

Q Can you give me any idea whether it is two, three or ten times?

A I estimate roughly it could be ten times altogether because each company had its own chief and its own top sergeant. I never paid attention to the other companies.

LT. COL. SKIELVIG: No further questions.

PRESIDENT: Colonel Burcham.

QUESTIONS BY LT. COL. BURCHAM:

Q Where did these shootings happen? In the protective custody camp or out on the job?

A Outside in the places of work.

Q Then that would ordinarily be in the daytime?

A Yes we only worked outside there by day.

LT. COL. BURCHAM: That is all.

PRESIDENT: Any further questions on the part of members of the court? Apparently not. Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What was the name of your clerk?

A I didn't understand you.

Q What was the name of the clerk?

A Bloss, B-l-o-s-s.

Q Do you know where he is at the present time?

A Yes, in Camp 3.

(Moraska - Redirect)

Q Can you give us the address?

A Yes.

Q Please give it to me.

A Karl Blosz, Camp 3, Barracks 199.

PRESIDENT: Anything further? Redirect examination. Apparently not.

PRESIDENT: Recross examination.

MR. BERKOWITZ: Nothing further sir.

PRESIDENT: The court understands that the Defense is finished with this particular witness for the time being.

(The Defense Counsel nods in the affirmative.)

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom.)

DR. WACKER: The Witness, Max Ehser, now appears on behalf of Witness No. 7, the accused, Buddensieg.

(MAX EHSER, called as a witness by the Defense, being first duly sworn, testified through an interpreter as follows:)

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Max Otto Ehser.

Q How old are you?

A 53.

Q Are you married?

A Please?

Q Are you married?

A Yes.

Q Where is your residence?

A Eilenburg.

Q Where are you located at the present time?

A You mean my family? I am in the special camp.

Q Where, in Dachau?

A Yes, in Dachau.

Q Are the American authorities holding you under arrest?

A Yes, apparently.

PRESIDENT: The court advised you at the present time that if you should be asked any question that might tend to incriminate you, that you have a right to ask the court to refrain from answering that particular question.

THE WITNESS: Yes.

PRESIDENT: Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Continue Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Were you in Flossenburg?

A Yes.

Q From what period of time?

A From the 20th of October 1939 until the 10th of December 1942.

Q In what capacity were you in Flossenburg?

A First I was in Flossenburg as deputy platoon leader of the guards and then as platoon leader.

Q What rank did you have?

A At the end I was a 1st Lieutenant.

Q With what company did you serve?

A I was with the second company.

Q How many companies were there altogether?

A Until March 1940 there were two companies in Flossenburg and then starting in March there were three companies.

LT. COLONEL SKIELVIG: What year was that?

COURT INTERPRETER: He didn't say.

QUESTIONS BY DR. WACKER:

Q In what year?

A In what year--from 1942 until I left in 1942, December.

Q Do you know a Mr. Buddensieg.

A Yes.

Q Would you recognize him if you would see him again?

A Yes.

Q Please take a look around and see if you can identify him.

A Yes, there he is, No. 7. (Pointing)

(The accused, No. 7, stands--sits down.)

DR. WACKER: Let the record indicate that the witness has identified No. 7 as Buddensieg.

QUESTIONS BY DR. WACKER:

Q On the first of January 1942 what official capacity, what job, did Buddensieg have?

A He was leader of the first company.

Q How long did Buddensieg remain as leader of this first company?

A He had had it since March 1940 until I went away in '42.

Q What rank did you have on the first of January 1942, you yourself?

A 1st Lieutenant.

Q In what company?

A In the second company.

Q Who was the commandant of the second company?

A That was 1st Lieutenant Heimann.

Q Was there any battalion leader there?

A No, there wasn't any there.

Q Did Buddensieg have anything to do with battalion matters?

A Not that I know of.

Tape 576-24
Floss-AB

Q Do you know anything about the instructions that the guards received?

A I still know about them, roughly, yes.

Q Where did the instructions come from?

A I don't know exactly where the guard instructions came from. I know they came through the commandant of the camp and he signed but whether he himself had originated them I can't be sure of.

Q Did you have anything to do with the instructions that the guards received?

A Yes, we had to point them out to the guards when they did duty.

Q Please describe as briefly as you can what the instructions said about prisoners who were attempting to escape.

A In the regulations that the guards received there were specific instructions what each guard should do. The guards, when they had duty, had to see to it that the security of the camp was maintained and that no prisoners would be allowed to escape.

Q According to the guards' instructions was it definitely established when you should assume that a prisoner was trying to escape and when not?

A You had to assume that he was escaping when a prisoner went through the chain of guards.

Q And what was a guard to do in such a case?

A In order to stop him from escaping he was supposed to make use of his weapon.

Q Were there not any other instructions?

A Not that I know of.

Q When the guard troops were on duty from whom did they take their orders?

A When the guards were on duty they took their orders from the commandant of the camp.

Q What did the leader of the ~~camp~~ company have to do with the guards during this period of time?

A When the guards were actually on duty the leader of the guard company didn't have anything more to do with his guards because his guards then took their orders from the commandant of the camp.

Q Do you know anything about whether guards received a furlough if they had stopped a prisoner from escaping?

A Yes, I know that various ones got furlough.

Q From whom did these people get their furlough?

A The people got their furlough from the camp commandant.

Q What did the leader of the camp have to do with this furlough?

A The leader of the ~~camp~~ company didn't have anything to do with this furlough because this furlough was given and approved by the lager commandant exclusively.

DR. WACKER: Thank you.

PRESIDENT: Recross examination.

MR. BERKOWITZ: No questions.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect examination.

DR. WACKER: Nothing further.

PRESIDENT: The court understands that the Defense is finished with this particular witness. The witness will be excused.

(There being no further questions the witness was excused and left the courtroom.)

DR. WACKER: We are now finished with the defense of Buddensieg.

MR. O'CONNOR: May it please the court, I think Mr. McKay had a witness coming on. I will get him.

PRESIDENT: The court will take a short recess in place.

(Whereupon at 1150 hours the court recessed in place until 1155 hours.)

Take 576-26
Floss-AB

PRESIDENT: Court will come to order.

PRESIDENT: Court will adjourn until 1330 hours this afternoon.

(Whereupon the court recessed at 1155 hours until 1330 hours, 5 November 1946.

Camp Dachau
November 5, 1946

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present, and all of the accused are present with the exception of Olschewski, Oswalt and Lipinski, who are ill and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case it is requested that they withdraw from the courtroom at this time.

DR. ENGELHORN: I call Ernst Wagner as a witness in behalf of the accused Pachen.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

ERNST WAGNER, called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Please state your full name to the court.

A Ernst Wagner.

Q How old are you?

A 51 years old.

Q Are you married?

A Yes.

Q Where do you live?

A My residence was in Upper Silesia, in Oberglogan.

Q Where do you stay at the present time?

A My daughter resides in British territory.

Q Where do you reside at the present time?

A In Dachau.

Q Are you in arrest by the Americans?

A Yes.

PRESIDENT: The court advises you, Wagner, that if you should be asked any question that would tend to incriminate you, that you have a right to ask the court to refrain from answering that question. Do you understand that?

WITNESS: Yes.

QUESTIONS BY DR. EGGELHORN:

Q Were you ever at the Flossenburg camp?

A Yes.

Q From when to when?

A From the 29th of March to the 20th of April.

Q What year?

A 1945.

Q Did you get acquainted with a man by the name of Pachen at that time?

A I did not know him by name; I only saw the accused two days previously when he went across the street with a dog.

Q Do you know now that this man's name is Pachen?

A I didn't know that his name was Pachen.

Q Would you recognize the man whom you saw at that time?

A Yes, I would recognize him.

Q Look over the dock and see if he is among the accused?

A Yes, here (Indicating).

Q His number?

A 33.

DR. ENGELHORN: Let the record show that the witness recognized No. 33 as the accused.

Q You stated that you were in the camp until the 20th of April?

A It must have been around the 20th of April.

Q 1945?

A '45.

Q How did you happen to get away from the camp? Please explain that.

A On the day in question--the camp was blocked out first--that was about one hour before the departures; then it became known that everyone was to depart from the camp, and one hour prior to that I received orders that I was the one who had to take the orders along that the weapons were there.

Q You stated that you received orders to report to whom?

A To the competent man who was leading the battalion at that time. I don't recall his name. It was a Second Lieutenant who was leading the battalion at that time.

Q How was the camp evacuated?

A The camp was evacuated by way of transport. There were three or four transports--I don't know exactly.

Q With which transport were you?

A I was with the second transport.

Q Do you know if Pachen was also in the second transport?

A I met Pachen on the way when he was marching in front of the transport.

Q Was he the transport leader?

A Yes, he was the transport leader.

Q What happened during that march?

A I can't say much about it, only that I was driving behind the car. I left later on my bicycle because I had to get my things together. I was driving along a country road when I met the transport again past the woods.

Q Do I understand you right that you departed later on with your bicycle?

A Yes.

Q Did you then pass the march column with your bicycle?

A No, when I reached the transport column they were just assembling--falling in--that was at the edge of the wood and I went up to the head of the column.

Q When was that--the morning or the evening?

A In the afternoon. That was about two hours after the original march had started.

Q Were you at the head of the column?

A Yes, at the head of the column.

Q Did you see Pachen?at this opportunity?

A Pachen was standing near the mill. There was a mill there. He was standing there.

Q Did the column stop there?

A No, they didn't stop; they just fell in and they marched on.

(Direct - Wagner)

Q What else happened on that date?

A The day they marched, that was in the evening I believe; it was dark; it was 9:00 o'clock; and then they took a rest in a meadow.

Q How long did this rest take?

A It could have been about midnight, 2:00 or 3:00 o'clock.

Q Did anything unusual happen there?

A Nothing. I don't know anything. Another transport passed us up there.

Q Do you know the number of the transport which passed you by?

A That I can't remember.

PROSECUTION: I object to "passing by". I don't think the question was the transport that passed him by. I think it was the transport you overtook, wasn't it?

INTERPRETER: "Passing by"; yes, it was.

PRESIDENT: You can clear that point under cross-examination if you want to. Go ahead, Dr. Engelhorn.

QUESTIONS BY DR. ENGELHORN:

Q How did you continue after starting out again?

A They marched again, and then in the morning I directly took off with my bicycle because on that day the prisoners were to get food rations.

Q What kind of rations did the prisoners get?

A I then went ahead with my bicycle, and the cars were stopping in the village, and every two prisoners received one loaf of bread, and they received some grain.

Q Did you again see the accused Pachen the second day?

A Pachen was present at the distribution of the bread.

Q And what happened after the bread had been handed out?

A After the bread had been distributed they took a rest--the prisoners took a rest in the meadow.

Q And what happened then?

A And then they started out again the next morning.

Q Did you again see Pachen the next day?

A Yes, he was there in the morning. He had then marched off.

Q Where did he march himself?

A He must have been in back at first because he wasn't at the head of the column.

Q When did you next see him?

A In the morning of the third day they again issued bread and he supervised that.

Q In what physical condition were the prisoners?

A The prisoners marched well; I must say that. I was at the head of the column and couldn't judge it very well, but as far as I could see they were in good physical condition.

Q Did you see the people lying in the road?

A I didn't see that.

Q You didn't see that?

A I didn't see that. I was at the head of the column and I couldn't judge it very well. Besides the column was so wide that it took the whole width of the street. It was dangerous to pass them with a motor car.

Q Was there much traffic on the road?

(Wagner - Direct)

A Yes, cars drove there too.

Q How long was the second march column?

A A marching column with two or three thousand prisoners stretches over a kilometer and a half, but in this kind of march it could have been about two kilometers long.

Q Did you hear any shots during the march?

A I didn't hear any shots. Besides that I had been wounded severely in the first World War, I had been buried alive, and I suffered shock, and my hearing had suffered then, and I am hard of hearing.

Q But if someone fires a shot near you, you hear that?

A If it is near me I would hear it, but I didn't hear anything.

Q Did the prisoners of the column stay together. That is to say, did they get along well?

A I can't judge that because I was at the head of the column--and couldn't judge that.

Q Did you not drive to the back with your bicycle on any occasion?

A I was at one time at the rear of the column when I had a flat with my bicycle, but then I rode ahead again and didn't see anything unusual.

Q How long did you stay with this marching column?

A Until we almost reached Straubing.

Q Do you know how many days it took to get to Straubing?

A I believe four days; I don't know exactly.

DR. ENGELHORN: No further questions.

PRESIDENT: Cross-examination?

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Who told you that Pachen was sitting down there on the first row near the rail?

A Nobody.

Q Now you left with the second transport; is that correct?

A Yes, but only after, after the departure.

Q And did you stay with this transport until it got to Cham?

A No.

Q You testified that you left the transport at Straubing, did you not?

A Yes.

Q Well, is Straubing on this side of Cham or east of Cham?

A Straubing is on this side of Cham (Indicating).

Q Then you were with the column at the time it approached Cham, weren't you?

A When the column reached Cham I was not there. Pachen and I went ahead and we looked for a place where we could find a rest.

Q How far east of Cham was it that you left the column?

A Well, I can't say--it was quite a bit away from Cham.

(Wagner - Cross)

Q And when did you rejoin the column?

A To the column when we returned--that was far after we had passed up Cham, that was where the crossroad is, where we found the place to rest.

Q And approximately how many kilometers was that from Cham?

A It could be four or five kilometers.

Q Didn't the transport that you were marching with overtake any other transport of prisoners?

A It did not overtake anyone.

Q And on the transport that you were with, did I understand you correctly to say that you did not see any prisoners die?

A Yes.

Q And you did not see any prisoners who weren't able to continue the march; is that correct?

A No, I didn't see any.

Q Do you know what the orders were with respect to what disposition was to be made of prisoners who were unable to continue to march?

A No, I do not know anything of this order. I have no knowledge of it.

Q You never heard of any such order?

A No.

Q Were you with Pachen the entire time from the moment that he left Flossenburg until you left him at Straubing?

A No.

(Wagner - Cross)

Q And you do not know what the orders were that Pachen gave to the men that were working under him, with respect to the disposition of prisoners who were unable to continue to march; is that correct?

A No, I was not with the column all the time. I was half a day ahead all the time because I had to see that the people got their rations and that they had their weapons and that they were fed; I was responsible for the weapons and we always had to see that people were properly fed.

Q You say you were responsible for what?

A For the weapons that were to be carried along to Dachau. They were loaded on to a vehicle and I was responsible to see that they got there.

Q What kind of weapons were these?

A Machine guns and panzer fours.

Q Were you armed on this march?

A I was not armed, no; I only had a pistol.

Q Was Pachen armed on this march?

A I only carried a pistol during the whole march.

Q What was Pachen carrying?

A Pachen carried--I don't know whether he carried a pistol or what. I don't know that--whether he carried anything. I don't remember if he carried a pistol. He did not carry a rifle.

Q Well, you saw him for several days, did you not?

A Yes.

Q And you cannot tell the court now whether or not he carried a weapon; is that correct?

(Wagner - Cross)

A No.

PROSECUTION: No further questions.

PRESIDENT: Any redirect examination?

DR. ANGELHORN: No.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Just what was your status on this march?

A I was a First Sergeant.

Q What organization or unit were you with?

A The guard battalion of Flossenburg.

Q Did you belong to the Waffen SS?

A Yes. I was drafted in '40 to the SS.

Q What did you mean when you told the court that you weren't armed; that you were armed with a pistol?

A Well, armed is to have a pistol and to have a pistol is armed. I didn't understand you right.

Q Did you have occasion to use that pistol during the course of the march?

A No.

Q You never took it out and cleaned it?

A Not either.

Q Was that generally the policy followed by a First Sergeant of the SS, that during a course of a march he wouldn't clean his pistol?

A Well, the pistol--the pistol, the pistol. The pistol wasn't even in order.

Q You mean it wasn't in order when the march started?

A No, the pistol I had was broken, broken all the time already.

(Wagner - Court)

Q When did you find out that it was broken?

A It had always been broken. It didn't even have a firing pin.

Q Well, when you inspected your unit and found some one of the men having a pistol out of order, what did you do?

A It was impossible during the march to check a pistol.

Q Are you sure that your pistol was out of order during the course of the march?

A Yes, it was out of order. I knew that beforehand.

Q Now you mentioned about the issue of bread. Day after day during this march, did the column receive bread every day during the march?

A Yes, the second day they received bread when the men were there--I can't remember exactly. At any rate they got a pot full of stuff and bread. I know that exactly.

Q Are you referring to the SS men or the inmates that got all that bread?

A The prisoners received the bread.

Q You never saw a single prisoner shot on that march; is that right?

A No, because I was always at the head of the column.

Q You weren't atthe head of the column during the halt, were you?

A No.

Q What happened during these halts? Was anyone shot during the halts?

(Wagner - Court)

A No.

Q Did you see any bodies at all lying along the road during the course of this march?

A I didn't see anything during the march.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q How many men left Flossenburg in this transport?

A I don't know. I only heard later on that there were supposed to have been three thousand.

Q Do you know how many were in the transport when you left?

A No, I don't know.

Q How long had your pistol been missing its firing pin?

A It had been missing a long time. It was a real old pistol.

Q Who was your company commander?

A The company commander was at the very end, First Sergeant Becker.

Q Did he ever inspect your pistol?

A No.

Q Was that an SS custom?

A No.

Q Wasn't your pistol inspected before you left Flossenburg?

A No.

Q You stated that the First Sergeant--some First Sergeant--was your company commander. Who was the company leader?

(Wagner - Court)

A There wasn't any at all. I believe the company commander was First Lieutenant Kirska or Kiersheim, or whatever his name is.

Q Did he ever inspect your pistol?

A No.

DEFENSE COUNSEL: If it please the court, may I remove the accused Haubold, No. 17, for conference with the attorney.

PRESIDENT: Request granted.

QUESTIONS BY PRESIDENT:

Q What were the conditions of the weapons of the other men of that transport?

A That I can't say. I didn't check their weapons. That was not my job.

Q Well, did anybody check the weapons?

A I don't know that. There were three sergeants from the Air Corps who did, who led the transport.

Q How much ammunition did you carry?

A Ammunition? I can't remember how much.

Q Well, about how many rounds?

A 30 or 40 rounds about.

Q What were you carrying all that ammunition for if your pistol didn't fire?

A How much ammunition I had?

Q That was the question the court asked you and you said 30 or 40 rounds?

A I only had one magazine, eight rounds pistol ammunition.

(Wagner - Court)

Q What did you mean when you said a moment ago, 30 or 40 rounds?

A The men had that.

Q But you had eight rounds?

A Yes, I only had one magazine--one magazine for that pistol.

Q Is that the same pistol that you used back in Flossenburg?

A Yes, the same pistol. I have had that for a long time, for as long as I had served.

PRESIDENT: Any further questions by the members of the court?

QUESTIONS BY LAW MEMBER:

Q In which company were you in Flossenburg?

A The third.

Q Weren't your weapons ever inspected while you were in Flossenburg?

A I was only 20 days in Flossenburg. It was all overcrowded because people from all directions came, and they overcrowded everything, and they were in schools and in the village of Flossenburg, and everything was overcrowded, and they were in the schools there, and they came from all directions, and there were SS men who were in the schools there, and they were all over.

Q I asked you if your weapon was inspected in Flossenburg. Answer yes or no.

A No.

Q When was your weapon last inspected?

A I believe it was checked once by the Ordnance Department in Berlin, but they couldn't repair it and I had to take along the way it was.

Q What year was that?

A '45.

Q What time in 1945?

A About February.

Q And all that was wrong with it was the firing pin had been damaged, is that correct?

A Yes, the firing pin had broken off.

Q You want the court to believe that the Ordnance could not repair the firing pin, is that correct?

A No, they couldn't repair it. It was an old Walther pistol and they couldn't repair it any more.

Q What calibre was it, a 32 or 38 or what?

A 765, I believe.

Q How long has Walther been making pistols, do you know?

A I don't know that.

QUESTIONS BY PRESIDENT:

Q How long have you been a top sergeant?

A Since September 1944.

PRESIDENT: Any further questions by the members of the court. Apparently not. Any redirect? Dr. Engelhorn.

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Who was First Sergeant Becker about whom you talked?

A He was company leader.

Q He is not among the accused?

A No.

Q Where is he now?

A I don't know.

Q Another question: When did you see Pachen the first time in Flossenburg?

A Two or three days before we departed.

Q Did he arrive at that time in Flossenburg?

A I didn't see him before that.

DR. ENGELHORN: No further questions.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Any further questions by the members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Did you observe Pachen perform any other duties on the march except to handle the issue of bread?

A No.

Q You never heard him give any orders or anything like that?

A No, because I was not present all the time.

Q Never saw him looking after the members of the column or anything of that nature during any of these breaks?

A No, only off and on he wasn't there and I assumed that he had driven to the rear.

PRESIDENT: Any further questions by the members of the court? Apparently not Redirect?

DR. ENGELHORN: No.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: The court unuerstands the defense is finished with this particular witness.

DR. ENGELHORN: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. ENGELHORN: I call the accused Pachen to the stand on his own behalf.

PRESIDENT: The court understands, Pachen, that you desire to take the stand in your behalf, is that correct?

ACCUSED PACHEN: Yes.

DR. ENGELHORN: May I first ask the question, may I be permitted to interrogate the accused Pachen in a slow manner because he has a deficiency in language and if he gets excited this will show up very badly.

PRESIDENT: The court understands the situation from your explanation, Dr. Engelhorn, and will give you full due consideration during the interrogation of this particular witness on the stand.

HERMANN PACHEN, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Mr. Pachen, what is your full name?

A My name is Paul Hermann Pachen.

Q When and where were you born?

A The 9th of August 1896 in Metz, now France, Lorraine.

Q You are one of the accused in this case?

A Yes.

Q What schools did you visit?

A From my sixth year until I was fourteen I went to the public school in Hagen, Westphalia.

Q And after you graduated from school, were did you go?

A I was an apprentice at the Oberburgermeister's office in Hagen, Westphalia and I visited the merchant school for two more years in Hagen.

Q Until what year?

A Until 1914.

Q What happened in the year 1914?

A In 1914 this unlucky war started and I was drafted as a recruit.

Q Did you participate in this war in the front lines?

A I participated in the World War in 1914-1918 in the front lines.

Q Where were you?

A I was in France and I was in Russia, in the war against Italy, Serbia, Macedonia, and frontier fights at the Greek border.

Q Were you promoted during the first World War?

A I became a sergeant and reserve officer candidate.

Q Were you wounded?

A I was wounded seve~~ral~~ twice, one shot through the chest and one shot through the lung, and was buried alive five times.

(Pachen - Direct)

Q With what troop unit were you?

A During the first year I was with the cavalry. The cavalry regiments were then deactivated slowly and all sent over to the infantry, and until the end of the war I was an infantryman.

Q Did you get any decorations?

A Yes, I received the iron cross and because of my wounds, the wounded badge in silver.

Q How was your life after the war?

A I stayed with the armed forces until the 16th of June 1919 when I went and joined the newly activated police--protective police.

Q What kind of service did you perform there?

A I was trained as a police officer in the interior and the outside service and did two years of criminal work.

Q How long did you stay with the police?

A The 31st of August 19[redacted] was relieved from the civil service of the Government because I had served twelve years. That was a decree issued by the Minister of the Interior at that time serving notice that all police officials who had served twelve years had to leave the governmental service. These twelve years included military service also.

Q Where did you go upon your release from the governmental service?

A I was employed by the Oberburgermeister's office in Frankfurt-on-Main.

Q What duties did you perform there?

A I was trained there in the administrative service, in the street car director's office, and the welfare service. And also in the food ministry.

Q Any other duties?

A And then in 1937 I was taken over by the newly activiated City police. These police had been activated by the order of the Government at that time and I joined the City police in Frankfurt-on-Main. This for the reason that I had been a police official since 1919.

Q Mr. Pachen, were you a member of the NSDAP?

A Yes.

Q When did you join?

A In 1930 I joined the NSDAP and the Allgemeine SS.

Q Please tell us some more of your political background.

A I have to go a little further back there to talk about my political background. The high court gives me permission to look at som of my notes--to use them.

PROSECUTION: I object to this, if it please the court, on the grounds that it is immaterial and irrevelent to the issues of the case.

PRESIDENT: Will the defense say what they are trying to bring out.

DR. ENGELHORN: The adventures that this accused had are of the greatest value to correctly judge his personality and will also serve to show his attitude towards serving the party. Later it will be shown that he was persecuted quite severely by the SS, the party, and the Gestape.

PRESIDENT: The objection of the prosecution is overruled, but at the same time, Doctor, the court desires

you during the course of the interrogation of this particular witness to hold him right down to a statement of bare facts and not let him get into details about his background. The court will receive evidence as to whether he was a member of this organization or that organization, a minimum amount of evidence of his police background and things of that nature, but do not let him get into details. Hold him right down to a statement of basic facts so that we can get into the matter of the main issues as quickly as possible as far as this witness is concerned.

DR. ENGELHORN: I shall do so, Mr. President.

QUESTIONS BY DR. ENGELHORN:

Q Tell briefly, Mr. Pachen, what happened in the year 1933.

A In the year of 1933 after having known the advantage of the party since 1930--I had seen everything then and that was enough for me--in 1933 I got in touch with a secret agent of the Greater Strasser movement.

Q What was the Strasser movement?

A The Strasser movement was a counter movement against Hitler and called itself the German Workers' Party, on the democratic basis. I could personally see their points and I began to work with them secretly. We had a very easy job comparatively because many party members were already unsatisfied to look on at such a life and such doings as they were. The program of the Greater Strasser movement so far as I can remember had the following points: Do away with the Jewish program because it is swindle; liberty for all churches and

to have them continue to go on for the liberty of the German people; to do away with the party rules; to do away with the instruments with which people were suppressed; to do away with the leader principle; and to dissolve all concentration camps.

PRESIDENT: Doctor, the court feels the witness is going too much into detail as to his background.

QUESTIONS BY DR. ENGELHORN:

Q What end did the Strasser movement find?

A In 1934 during the Rome putch Strasser himself was shot to death. General Schleicher who was to take over the Government was also shot to death, and very many SS and SA leaders.

Q In this connection I want to ask you what your religious preference is?

A Protestant.

Q Are you still a member of that faith?

A No, today I am member of the Roman Catholic Church.

Q Did you leave the Protestant Church?

A Yes, in 1938.

Q Why?

A In Frankfurt-on-Main an SS man died. His parents wanted a Protestant preacher to handle the burial--the funeral. This preacher rejected that, and a Catholic preacher took over the funeral, and since that time I became member of the Roman Catholic Church.

Q What happened during the year 1935, Mr. Pachen?

Ta 577-11/5-DHC(IB)-24
FLOSS.

A In 1935 I got into trouble with the SS leaders on Frankfurt-on-Main. As an old soldier I made my points clear to these gentlemen, and was able to take a look in the personal files.

Q What did you do?

A I fought against some of these ways--the way they handled these personal matters, and the Reichsfuehrer SS heard about it and he himself came to Frankfurt and cut out some of these things.

Q What was the result for you?

A Disciplinary action was taken against me and I was brought before the SS court in Munich.

Q What was the result?

A The result of this trial was that I was under a steady persecution in Frankfurt-on-Main. I was handed over to the Gestapo for observation. As a result of this in July 1939 a document came down from the SS court in Munich. This was a sentence and it read about as follows:

> "For the reason of political unreliability damaging the reputation of the SS severely, as well as lack of discipline, you will be excluded from SS services for one half year.
>
> "The punishment, the sentence, has been served already. You have to resume your services immediately."

Q Describe your background during this last war?

A The 1st of September 1939 I was called to the draft board in Frankfurt-on-Main, being 1-A. The draft board is a place where all men who are 1-A have registered and are being handed over to the different troop movements.

Q What was your rank when you were drafted?

Ta 577-11/5-DEC(IB)-25
FLOSS.

A I was drafted as sergeant and I was put in charge of the secret section of the command and had the secret correspondence.

Q Were you promoted?

A In December I became Staff Sergeant and in February 1940 I was to become Lieutenant.

Q What happened then?

A The 15th of January 1940 an order came from the Supreme Command of the Wehrmacht that I was to be transferred to the Waffen SS. I was released from the Wehrmacht and sent to the SS Infantry Regiment No. 12 at Posen. There I was told that I would have to participate in the next class of officers' candidates of the SS in Brunswick. From March until July 1940 I attended this officers' school. After passing the examination as an SS candidate--SS officer's candidate--I was sent to the SS Infantry Regiment No. 10 in Krakow as chief of the personnel section. The SS regiment was being activated and I held with my work.

Q Were you then sent to the field, Mr. Pachen?

A In 1941 I went into Russia with the regiment. I was then again buried alive because we had been surrounded by Russians and was returned to the replacement battalion east in Breslau. In February 1942 in Breslau I took over the convalescent company as company commander and led same until November 1942. In August 1942 I took my examination as company commander and then became first lieutenant of the SS Reserve. In December 1942--the battalion was now a so called march battalion--they were sent to Russia and they took over the troop training ground in Hegewald near Chitomir.

There I became company commander of the guard company.

Q What happened then?

A Upon the approach of the Russians a reconnaissance had to be done and I took a group of cavalry men along and carried out a so called reconnaissance by force. My patrol and I were caught by Russian machine gun fire. My horse was shot from under me. I was thrown against a tree with my head. I fractured my left patella and I injured my hands. I was taken back to a hospital. Because of a severe throat infection which I had gotten because of a cold I had to be operated on and was taken to the university hospital in Breslau. There they found out that my glands had been working overtime 48% and I was operated on.

Q What was the result of that operation?

A In July 1943 I recovered. In Breslau they took me before a commission of doctors of the Wehrmacht. I was declared 100% incapable of doing service and my release was requested. Because of my severe condition of nerves and the complication of my head I couldn't do any service any more. My release was rejected because they needed officers.

Q What was done with you then?

A The 15th of August 1943 I was sent to the Volksdeutsche in Mittelstelle in Berlin and from there to the reserve staff in Litzmannstadt. There I took over a welfare camp for the Germans who had taken refuge from the east. In December 1944 it became known that the Russians were pushing ahead.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1500 hours.)

(Whereupon the court reconvened at 1534 hours)

PRESIDENT: The court will come to order.

PROSECUTION: Let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the accused; all the personnel of the defense are present; all the accused are present with the exception of Olshewski, Oswalt, and Lipinsky, who are sick, and Dr. Schmitz, who is conferring with counsel. The interests of these named accused who are absent are being taken care of by counsel.

The witness is reminded he still is under oath.

If there are any spectators in the court who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Continue with Direct Examination, Dr. Engelhorn.

HERMANN PACHER, an accused resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Cont'd)

QUESTIONS BY DR ENGELHORN:

Q Pacher, you said that in Litzmannstadt you had a camp for people who had been thrown out of the east, where these people were taken care of, is that right?

A Yes.

Q How did that end?

A In October, 1944, the word went around that the Russians had broken through and that the greatest precaution should be taken. All the Volk Germans who were in this camp in Litzmannstadt should be immediately transported to the interior and should be settled by the colonizing agencies in East Prussia, West Prussia, Thuringia, and East Saxon, and so that only the Command Posts remained in the camp alone. Meanwhile I was called off to Berlin and I was called at the SS court in Berlin and I was told briefly that because of my situation as

(Pacher-Direct Cont'd)

politically unreliable and by lack of discipline in the SS and party matters I was exempted, thrown out of the Allgemeine SS and the party, and that my exemption from the Waffen SS would follow.

Q Did it actually occur that you were thrown out of the Waffen SS?

A No, that didn't actually take place.

Q What happened then in Litzmannstadt?

A I went back to Litzmannstadt January 10, 1945, and when I got there the word came through that all the command posts should make themselves ready for traveling. Everything was prepared. On the 17th of January, 1945, around noon the Russians made an air attack. Around eleven o'clock in the evening I left Litzmannstadt with twenty vehicles in good condition; about forty people, including women and children, and as we drove out of Litzmannstadt we saw the cities on both sides of the roads in flames; Pabianice on the left, and Sgersch on the right. I kept moving toward the west with my column. The cold was about forty to fifty degrees. The main thing I had in mind was to get away from the following Russians. We drove day and night, and as we were underway we found out that Russian tanks were close behind us and that Russian soldiers were following and I, myself could see with my own eyes that whole columns including columns with horses, had been crushed to the ground by Russian tanks. The tanks were ahead of us and were entering the various villages and were shooting at random about themselves and then would go back to the highway, and besides that we saw that people were moving to the west in the streets in streams. The encirclement had as its result that people including children, would lie in the street and be frozen to death. I saw many a mother weeping, standing next to her dead child. The march went on and we came as far as Guben. There we wanted to stay for eight days in order to refresh

(Fachon-Direct Cont'd)

the horses and our people, but we had to take up the march again after three days because the Russians were approaching. On the 23rd of February, 1945, I landed in the area around Leipsig in a town called Delitzsch where I got an order to abandon my command post and to release personnel and to send them home because they were all civilian employees. Besides that I would like to mention that this Volk German Middle Office was a civilian office, but that this camp where people were cared for had an SS Officer in charge of it. Besides that I had an order to remain in Delitzsch until a telegram came from Berlin and called me away from there. I got very sick and stayed in Delitzsch until the 10th of April, 1945, and since I didn't get any message I turned to the Office of Defense in that area and I asked about my command post and I was told that they didn't have any communication with Berlin any more and that the main headquarters of the SS was in Weimar. There wasn't anything else to hold me then so I drove to Weimar and received my quarters in the theater there. And I went from there to my command post in Berlin upon orders of the headquarters. They told me that there wasn't any more communication, any contact, and that I was to be transferred to a concentration camp at Flossenburg. I objected to that and they said that according to an order of the National Leader of the SS that all officers reporting to SS quarters would be transferred to concentration camp duty. I drove off, took my baggage in Delitzsch, got my baggage, and went off to Flossenburg.

Q When did you arrive in Flossenburg?

A On the 14th of April, 1945, I arrived in Flossenburg.

Q Do you know the day of the month when you arrived?

A That must have been a Friday or Saturday. I don't know exactly any more.

Q What did you do after you arrived in Flossenburg?

A I arrived in the evening and couldn't find anybody there. I didn't find anybody in the commandant's office.

Q What did you do then?

A The guard brought me to the leader of the battalion at that time, Major Berger, who sits here in the dock and reported me according to regulations with him.

Q What happened on the next day?

A May I make another remark in this regard: Major Berger could see in what poor physical condition I had arrived there and he immediately took care that I got quarters and food, and I could see that I had fallen into the hands of a very decent commandant. The next morning I reported to the adjutant, and I reported the next morning and I had my transfer papers and also my complete sick record. He brought me to the commandant and turned my papers over to him.

Q What was the name of the commandant?

A His name was Koegel. I stood in the room and he shouted at me and said, "What do you want here"? I said I was reporting as a result of transferral, reporting to a concentration camp and I said that this transferral paper which he had in his hand would take effect the 1st of May, 1945, and I said that I would like to ask for a two week leave, two week furlough, for the purpose of convalescence, and he asked me where I wanted to go to. I said I wanted to go Westphalia to my mother. He said "That can't be done, the American army is already under way here. I said, "You give me my furlough and I'll take care that I get quarters somewhere under way". Besides that he said, "I can't give you any command post because the whole camp will be moving to Dachau in a few days", and he at least allowed me to convalesce and he said, "Consider yourself a guest".

Q What happened then? There seems to have been something that happened on the 18th?

A On the morning of the 18th I was crossing the yard of the commandant's office and I met Koegel. He asked me how I was and I gave him the answer as I saw fit, and he started a conversation with me and during the course of this conversation, I asked him if he was serious when he said the camp would be evacuated. He said, "Yes, that is the order of the national leader of the SS upon whose order we are going to do it, then we will have to wander". Then I asked him whether he knew what effects that would have, and I told him about my escape from the East, from my command post with the people I still had with me then?

Q What did Koegel say then? What happened then?

A Koegel laughed. Then I offered my services and said I was willing to turn over the whole camp to the American authorities, and I told him he should step and think what effects an evacuation of the camp would have on the people who would have to be transported and he saw my point a little bit and he said that he was going to talk about that with the mayor of the town of Flossenburg. Then we said good-bye and parted. On the 19th of April, 1945 I was ordered to go to the commandant who was located at that time in the yard of the commandant's office and the Adjutant, Baumgartner, was there with him. They introduced a civilian that they said was the mayor of the town of Flossenburg. He mentioned a conversation which we had had on the previous evening about the turning over of the camp. He talked to the mayor and said it was possible that he would give me an emergency militia because the troops had to leave anyway. I wanted to occupy the towers with this emergency militia in order that the people could see there were still guards there. The mayor didn't want to have any part of that and he said he rejected it entirely. He said that would be a state of chaos for Flossenburg. The prisoners would

attack Flossenburg and they would plunder everything. We tried to convince the burgomeister that he was wrong but he stuck to his point of view that he couldn't be responsible for that. That was the end of the conversation and we parted. At nine o'clock in the evening of the 19th we were ordered to the Officers' Club, that is, the leaders of the camp, for a conference, and there the commandant discussed the fact that on the 20th of April in the morning the camp would be evacuated and he said that Himmler had ordered this decree. He said that the entire personnel of the camp should be split up into four marching groups and four leaders would be given to each marching column as leader of that column and I would be included among that. I said that he shouldn't count on me, that I had rather get out of that. I told him that on the eve of the march. I said I wasn't well enough to do that and then he said he would have to call my attention of this order of the national leader of the SS according to which any officer or non-commissioned officer or soldier who refused to carry out this order he could shoot to death on the spot. That was something new for me. I didn't have any other choice. I had to go along. And he said that on the next morning, the morning of the 20th of April the four marching groups would fall in. The first marching group would fall in at nine, the second at eleven; the third at one o'clock in the afternoon, and the fourth at three o'clock in the afternoon. He said that any prisoner on the march who couldn't continue the march would be left there where he was sitting.

Q Was there any marching itinerary made?

A Yes, there was a marching route given but we weren't supplied with any maps.

Q What was the route of the march?

A As I already mentioned before, the march was to go toward Dachau.

Q Were any cities mentioned through which the march should go?

A There were cities mentioned, that the march should go through these cities, but I wasn't orientated about this area for I was in Bavaria for the first time in my life but I know that the march took the route through Roding, Straubing, Landshut, to Dachau. And according to an order of the national leader of the SS all the mayors of the villages along the itinerary, along the route, had been notified that they would see to it that all the prisoners who died would be buried along the way and I, myself understood by this order that it was meant that anybody who would die when we were making a break, and that could occur, they also were to be included in this order. There was never any order given out in regard to shooting.

Q Please tell us what happened on the 20th of April.

A Toward eleven o'clock in the morning of the 20th of April, I went into the yard of the commandant's office and I met the Adjutant there and the Adjutant explained to me that he had postponed the entire march for about an hour, but that the commandant would give me the best marching block, that is the tradesmen and the active workmen. Besides they were going to give me some help who were supposed to help with any prisoners who might die during the march. I demanded that they give me a written order for the march and a list of the names of the prisoners, and it was explained to me that there wasn't any such thing, and I said, "How am I going to explain the disappearance of any people we might lose during the march"? I said,

(Pachen-Direct Cont'd)

"I don't know anybody. I am completely a stranger here". He said, "The Commandant will tell you all about that". A platoon leader of the guard reported to me with seventy-five men. Besides that, the First Sergeant of the SS, Mussfeldt, reported to me and he had a wagon with two horses and three prisoners. He said to me, "First Lieutenant, I have been assigned to you", and he said, "I'm supposed to help with burying anybody who dies in the cemeteries". The marching block fell in around twelve o'clock. The guards took positions to the left and to the right of the column. The column was counted off. I got three thousand prisoners. One non commissioned officer with five vehicles reported to me. The vehicles were loaded with trunks and boxes and he said that he had been assigned to my column. I sent him up to the head of the column with his vehicles and I had a man on a bicycle who was to act as communication between him and me so that I would have the column with me at all times when we made a break. After the noon hour, the marching column first went to the intersection of Ost Strasse Widen and Pilsen, and we made bivouac there on the meadow which was lying next to the intersection. That was toward nine o'clock in the evening. Toward eleven o'clock the commandant and the adjutant arrived. He gave me an order from the higher SS official in Grafenbuhr and he said that because of the danger through air raid attacks, the column would only march at night from then on. I said as far as I was concerned that was temporarily impossible because I had been marching with my column all day long. I said that the people had to sleep for a few hours and that I was ready to pick up the march again at two o'clock in the morning. At two o'clock in the morning the march went on. We marched through the night until seven o'clock in the morning and we again made a break on a meadow near a village which name I don't know. In the afternoon I got

food for the people. Everybody got half a loaf of bread and a hand full of wheat, grain. At seven o'clock in the evening we picked up the march again and marched until the next morning, and we kept on marching until we got behind Cha . The marching column was from about one to one and one-half kilometers long, but when we were ready to make a break the column would expand to a length of more than two kilometers. I was always at the head of my column and once in awhile would drive back on my bicycle to see what was going on back there. I didn't hear any shooting at all on the first days in my column but I did hear shooting going on in the distance and whenever anything like that occurred I would get on my bicycle and travel to the end of my column, not because I believed anything had happened there; but I just wanted to check up and make sure. In front of every village and in front of every town I would stop my column and draw the ranks together and people who co ldn't continue the march I picked out and let them stay in the villages. The first bodies I ever saw were just before Cham. I saw about fifteen to twenty people lying at various spots. They were sometimes covered but I don't know whether they were all dead. And then I met the Commandant and I asked him how it came that these people were lying around the streets and he said to me very bruskly, "That is none of your business, that is my business". And he said if I didn't have anything else to say I could move on and so I went on until we had Cham behind us. We stayed there in a camp to the right of Cham, behind Cham. There wasn't any food and I had to buy six thousand pounds of potatoes from a farmer who was there in the village and I paid for these potatoes with my own money. After the potatoes had been cooked and distributed, around noon, twelve o'clock, I picked up the march again with my column and marched on. I drove on ahead with my bicycle in order to look for food. After I had gone about

ten kilometers I saw the commandant, the adjutant, and the administrative officer standing in the middle of the street in the village. He said to me, "What do you want here"? I asked him for food for my people. He told the administrative officer to immediately see to it that wagons were loaded with bread and that they should go back with me to my people. I gave my people food in the middle of the street. I, myself was so physically run down that I had fever and I could scarcely keep standing on my legs. I continued to march with my people and we reached the spot where I earlier met the Commandant. He took the marching column away from me and had them quartered on a meadow in front of the village. I begged him to relieve me of my duty because I couldn't continue because my fever had already reached almost 40 degrees and he allowed me to rest there for one day. I went into some quarters and lay down. They again gave the marching column food. The people also got hot coffee which was something they had never gotten before on this march, and in the evening the marching column took off again with a new leader. I don't know who that leader was. The next morning I went on again and accompanied this column with horses and wagons which were also quartered in the same village and I met my column again at the next noon, and so I continued until on the 27th between four and five o'clock I arrived in Dachau. I marched in here with my column in closed ranks and turned over the marching block to Koegel. The marching column was counted off here in the entrance to the prisoners' camp and I turned over 2, 654 prisoners. The 346 prisoners who were missing consisted of people who remained behind in the villages on the way and I had had people transported here by car to Dachau and assigned a guard to each group. I released about 50 persons in Straubing. The prisoners were all wearing civilian clothes and they

(Pachen-Direct Cont'd)

also had their identification papers with them. I saw that everything was coming to an end. Why should I keep the people?

Q Mr. Pachen, with hat columns did you enter Dachau, in what sequence?

A Mine was the second column that arrived and marched into Dachau.

Q Which column marched into Dachau ahead of you?

A The first column marched in ahead of mine.

Q How much earlier than your column did the first column march into Dachau?

A Approximately 2 hours. I don't know it exactly.

Q Did the sequence of the marching order remain the same, 1, 2, 3, 4, or did it change?

A The sequence changed in the following way: Column one was marching in front of me and we came as the second column behind them. I didn't see the first column as we were marching up to my first breaking place, but the columns number 3 and 4 overtook me around midnight of the 20th and 21st of April, 1945. I couldn't actually recognize the columns distinctly because it was pitch dark at night.

Q Is it true that during this night between the 20th and 21st of April you became the last column?

A Yes, we were at the end.

Q Do you know whether any prisoners escaped from your column?

A Yes, I know about that.

Q How did you find out about that?

A On the night when I had my people fall in at the highway which was surrounded on both sides by forest, I heard shots fired at the head of the column. I immediately stopped the marching column, went back, and I found out that alarm shots had been fired. I

immediately investigated the reason and I was told that prisoners had escaped out into the forest on the right. They couldn't give me the exact number because it was pitch dark at that time. They couldn't see. I immediately asked whether anyone had taken a shot at the prisoners. They said they hadn't done that, they had only fired off shots to scare them, which is correct in such a case.

Q Do you know how long the whole stretch is between Dachau and Flossenburg?

A 270 kilometers, the whole length of the stretch between Dachau and Flossenburg, but I asked various civilians along the way how I could get there best and they said I could have taken a shorter route. And these short cuts were actually the correct stretches to take because it was forbidden for us to march on the open highway.

Q How long did the entire march take?

A The whole march, including the times when we took a break, took seven days and six hours.

Q In what condition did you bring your prisoners to Dachau?

A I can only say that my prisoners marched well. I never had anything to criticize about these people as they were marching and I never saw anyone of my prisoners dead under way. I knew that I had to see to it that I had to take care of all the people who were entrusted to me, even though I didn't have to take over the responsibility.

Q Do you have anything else to say?

A (No response)

PRESIDENT: The court will take a short break.

(Whereupon the court took a short recess in place)

PRESIDENT: Court will come to order.

QUESTIONS by Dr. WACKER:

Q Just one more question, Mr. Pachen, you said you had had an operation performed on you. What kind of operation was that?

A An operation for Basedow illness.

Q What kind of illness was involved in there?

A It involved an illness of the glands. I had a neck like this: (indicating). My glands had worked 48 percent too much.

Q Is that similar to goiter?

A No, goiter is something else again.

Q Can you still see the scars from this operation?

A Yes, I have them under my collar.

Q If the court wanted to see the scar, could you show them the scars?

A Yes. I must mention here that the illness mentioned here later went to insanity or suffocation. I suffered from a persecution mania before this operation was performed because the regimental doctor in my regiment couldn't find out what kind of sickness that was. I could go anywhere I wanted, but it always seemed that somebody was following me. I locked myself up in every room and at the end I didn't even trust myself. That is this sickness. It brings you either suffocation or insanity. I had the most famous surgeon in this branch of surgery for my operation and his name was Professor Doctor Blumenl. He was in the university in Breslau and he was active at the same time as an instructor in medecine at the Breslau university.

Q Would you like to show the court these scars?

MR MCKAY: Let the record show that the witness has a scar immediately below his neck from six to eight inches long, forming a semi-circular scar.

MR MACHER: I have no more questions.

PRESIDENT: Any further questions on the part of the other members of the defense? Apparently not. Cross-examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Are you suffering from suffocation now, Pachen?

A No, but I suffer a great deal because I am not being treated by a doctor as I am supposed to be, as was ordered.

Q Did your sickness affect your memory any?

A Not at the moment. But there are times when after I have read something, half an hour later I don't know what I have read and there are moments when I can hardly remember names of old acquaintances.

Q Has this affected your memory since you took the stand and started testifying?

A After I have taken the witness stand?

Q Yes.

A No.

Q And you remember clearly everything you have testified, is that correct?

A That is correct, yes.

Q You have not made any errors in your testimony to this court?

A I wouldn't say that.

Q Well, let us see about the errors. You joined the NSDAP in 1930, did you not?

A Yes.

Q And you remained a member of the NSDAP as long as it was in existence, did you not?

A Yes.

Q And you never were kicked out of the NSDAP?

A No, because I couldn't be thrown out of the party because the law wouldn't allow it.

Q What was it you had reference to when you said you were held before an SS court and you were not politically reliable?

A I forget to say that at the beginning of my discussion here, in October, 1933, I was suddenly arrested upon an order of the SS General Weitzel, or else it was an order which came from the SS Headquarters, I don't know which, because they had me under suspicion as belonging to the Strasser movement.

Q Didn't you testify before this court in conjunction with your activities in the East that you were thereafter called to appear before an SS court in Munich and there were told that you were no longer a member of that party and that you were no longer a member of the Allgemeine SS?

A That has nothing at all to do with my activities in the East.

Q When did that take place?

A What happened?

Q When did it take place that you were called before this SS Court and informed of those facts I just stated?

A I was never placed in front of an SS Court. I was called to Berlin to the SS Court where they merely informed me of that and they could have done that by the mail.

Q They did tell you, though, that you were kicked out of the party and were no longer a member of the Allgemeine SS, is that right?

A Yes.

Q What do you mean when you say now you were still a member of the party?

A I can explain the reason for that. I already said that

I broke off from the Allgemeine SS in Frankfurt on the Main River and I said that after that I came into the Sturm Division of the SS. That is that part of the SS where non commissioned officers and officers and up, can't do duty any more or have something else wrong with them. Since 1935 I didn't do any more SS duty at all because I was forbidden to wear my uniform according to the disciplinary proceedings which had been brought against me in Munich. They were mad at me in Frankfurt on the Main River because I had sent a letter, some document consisting of 18 pages to the National Leader of the SS by airmail and I had explained to him my opinion in regard to the leadership of the SS in Frankfurt on the Main.

Q Answer the question, please. How long were you a member of the Allgemeine SS?

A Until 1944. I wasn't cut out of it, but I was put into this Sturm Division of the outfit where people were sent who couldn't do duty any more, because, according to an order of the National Leader of the SS, it wasn't allowed to throw anyone out of there. The only thing could be done to a man was to put him into this Sturm Division of the SS where he wouldn't come into contact with the others and wouldn't have any duties. That is right what I am telling you.

Q At what time?

A 1935.

Q You mean you couldn't do duty in 1935, but you continued to be a member of the Allgemeine SS up until 1944, and you became a member of the Waffen SS in 1940 and did duty there, did you not?

A Yes, that is right.

Q And also you say you were persecuted in 1935. Is this not a fact that during that same period of time you were appointed a Haupt Sturmfuhrer?

A Haupt ~~Sturm Fuhrer~~ Sturmfuhrer, Captain of the SS. Yes, that was right.

Q And you were also persecuted in the party and yet in 1939 isn't it a fact you were awarded the party service medal in bronze?

A That came for everybody systematically.

Q It came for everybody again in 1942; while you were still being persecuted you were awarded the service medal in silver. Isn't that right?

A Yes, that repeated itself. That is right. I didn't do anything dishonorable. There wasn't any necessity for my having to be put out of the party or the SS. I was just in the opposition.

Q And you were in the opposition when you joined the Reichs? You were still in the opposition, were you not, when you joined the Reichs Air Protective Service in 1935, and continued in that organization up until the time of the fall of the German Government, is that not so?

PRESIDENT: What is that name? Air Protective Organization?

PROSECUTION: Yes, sir.

A I never was a member of the National Air Protective Organization. Every family in Germany belonged to this National Air Protective Society and had to pay its ten pennies every month.

Q And you paid your ten pennies, did you not, each month?

A Yes.

Q And you were a member of that organization, were you not?

A No, no, no.

Q And you were also a member of the opposition when you joined the DAF in 1935 and continued in that organization up until the fall of the German Government?

A Yes, but Mr. Prosecution, just what do you think DAF is? That is not a war organization. That is an organization in which I had been as an employee of the authorities. I didn't pay my dues

personally but the dues were automatically deducted from my monthly wages.

Q I am just interested in your opposition, Pachen.

A Yes, that was all very interesting. May I ask Mr. Prosecutor a question?

Q You just answer mine, Pachen.

A As you please.

Q Now, you left Flossenburg, did you not, at noon on the 20th?

A Yes, at twelve o'clock.

Q And you were the second column?

A I was in charge of the second column.

Q Into how many groups did you divide that second column?

A I didn't divide this column into any groups at all, but I kept the whole marching block as one unit because I didn't have enough of the necessary personnel at my disposal in order to split up this column.

Q How many SS guards did you have with you?

A I don't know whether I had camp police along. The people were all dressed and camouflaged, at least they were dressed like SS men and I assumed that they were definitely SS men.

Q You mean the first figure you gave was the total number of guards you had on this transport?

A Yes.

Q And did you have any other officers on that transport?

A On the first day I had a 2nd Lieutenant of the SS with the name of Rink and he had a severe illness in his back and I had to turn him over to the unit which had the horses and wagons because he couldn't walk, and so I had to rely on myself and I, myself, was sick.

Q And how many guards which you had there were armed?

A Every guard was armed. Each one had a carbine.

Q And what did you have?

A I carried a pistol.

Q And how many rounds of ammunition were issued to the guards?

A Now, you laugh at me. I must now explain that I didn't have any ammunition for my pistol because I couldn't get any in Flossenburg.

Q I didn't ask you that. Answer my question.

A I don't know how many rounds of ammunition the guards had with them. I never asked about it.

Q Did you have any discussion with the guards as to what orders they were to follow after the time that you entered upon this march?

A I didn't give any orders how they should behave. I didn't give any instructions at all. I didn't get any written orders and so I assumed since I was a stranger and didn't know about that, that the one who knew about that, knew all about it was the platoon leader of the guards.

PRESIDENT: The court will adjourn until nine o'clock to-morrow morning.

(Thereupon the court adjourned at 1700 hours)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at .....
in (Address of Court)
(Anschrift des Gerichtes)

on .....194 .....
am

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused ..... 194.....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8
First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

Pages 6207 - 6292 incl.

Case No. FLOSSENBURG

[redacted]
[redacted]
*General

Place DACHAU, GERMANY

Date 6 November 1946

Prosecutor

Defence Counsel

Interpreter

Reporter

[redacted]:
WITNESSES:

HERMANN PACHEN
LUDWIG WURSTER

Accused [redacted], ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES — Versus — FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY — BEGINNING 12 JUNE 1946

6 November 1946 — 0910 - 1705 hours. — Pages 6207 - 6292 incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
HERMANN PACHEN		6207	6214 6228 6238 6243	6230 6240	6216 6222 6232 6241
LUDWIG WORSTER	6245	6261 6268	6270 6279	6272 6288 6290	6273 6288 5

EXHIBITS

NONE

Camp Dachau, Germany
6 November 1946

Ta 579 11-6-46
PLS-mtw-1

MORNING SESSION

(Thereupon the court reconvened at 0910 hours).

PRESIDENT: Court will come to order.

PROSECUTION: Let the record show that all the personnel of the court are present; all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Lieutenant Colonel Wilson who is away on business of the accused; all the accused are present with the exception of Olschewski, Oswalt, Lipinski, and Eisbusch. The interests of those named accused who are absent are being taken care of by counsel.

PRESIDENT: Continuation of cross examination.

HERMANN PACHEN, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (Cont'd)

QUESTIONS BY PROSECUTION:

Q Pachen, how is your memory this morning?

A My memory is o. k., good.

Q Now, you testified yesterday that before leaving Straubing you participated in a conference that was called by the camp commandant, Lt Colonel Koegel, is that right?

A Yes.

Q Who all were present at that conference besides you and Koegel and Baumgartner?

A Fischer was there and 2nd Lieutenant Skierka, Mr. Blomberg, Captain of the SS, Kirsamer, the Leader of the Administration, 2nd Lieutenant Rink.

Q Is that the same Otto Rink that you testified went with you in your column yesterday?

A Yes, and various other officers whom I didn't know.

Q Approximately how long did that meeting last?

A This conference, scarcely half an hour.

Q And during that time what were you informed concerning the march by Koegel?

A Koegel said the following: He said that he had come back from the higher SS and police leaders and that he had been ordered to have the camp evacuated on the 20th of April, 19:5 and he told what route would be taken. The final destination would be Dachau. All the prisoners who couldn't continue the march would be left behind at the spot where they couldn't continue the march, and the national leader of the SS had notified all the mayors of the towns and villages along the route that all the prisoners who died at the bivouac places would be buried. Food stations had been set up along the way, had been arranged so that whenever people stopped to make a break, food would be brought in for the prisoners. The camp would be divided up into four marching blocks, each one three thousand men, and he designated four marching leaders for the blocks. No more orders were given.

Q You were told then at that conference what the route of march would be, is that not true?

A Yes.

Q And all four columns were to follow the same route to the final destination, Dachau, is that not correct?

A Yes, the same route.

Q You did follow the same route, did you not, to Dachau?

A Yes, as far as I know.

Q You left in the relative position of the second column, is that not correct?

A Yes, I was the column leader of the second column.

Q I believe you stated yesterday that columns three and four overtook you on the night of the 20th and the 21st, is that correct?

A Yes, that is correct.

Q That would make you at that time the last column of the four columns, is that not correct?

A At that time I was the last column.

Q All right, now. When after that did you change a position from the last column to any other position?

A That must have been just before Cham.

Q And what position did you assume in the four - just before Cham?

A Then I took first place. Why? Because I had already overtaken the other three columns.

Q Where was it that you overtook the first of the other three columns?

A The first of the other three?

Q Yes.

A That I don't know because we camped during the day and marched at night.

Q Did you overtake the other three columns approximately during the same marching period? By marching period I mean during the same night.

A I don't know that. At two o'clock in the morning we marched off again and at seven o'clock in the morning we quartered ourselves again and as we were marching we didn't see any marching group at all under way.

Q Before Cham you testified you became the first column, is that correct?

A Yes, but the possibility exists, and actually that was the case, that the other marching columns had already overtaken me again because in front of Cham marching group one was ahead of me, and I overtook that column again so that then I was in the lead.

Q Did you maintain the lead from Cham to Dachau?

A No, I found out that after Cham no more marching blocks were coming behind me and that the other three columns had already been taken prisoner by the Americans.

Q So that from Cham to Dachau your column was the only column that marched along that road, is that correct?

A That must have been the case, but I would like to mention here that my column wasn't the only column that was marching, but that I ran across various columns just behind Straubing. I don't know where they came from.

Q You mean by that, those were columns of prisoners from Flossenburg?

A I don't know. There were even columns of women among them.

Q Those women were not in the fourteen thousand that left Flossenburg, were they?

A No, I didn't see them under way any more.

Q Your column then was the only column that arrived at Dachau, is that correct?

A It wasn't the only column that reached Dachau. On the next day various other columns also reached Dachau. I don't know where they came from.

Q Of the four columns that left Flossenburg, yours was the only one that reached Dachau, isn't that correct?

A I have to assume that because I found out that after we had passed Cham the three marching blocks which were marching behind me had been captured by Americans.

Q In other words, at that point you were joined by guards that came from these other columns, is that not true?

A No.

Q You were not joined by any guards from the other columns?

A No.

Q You are certain of that?

A Yes, I am certainly sure about that. I would have seen that and I would have had to have known about it.

Q Your column went through Wetterfeld, did it not?

A I don't know.

Q It went through Cham, did it not?

A No, we kept to the right of Cham. I turned off about six or seven kilometers to the right of Cham.

Q In other words, you went around Cham, is that not correct?

A No, we didn't go around Cham, we kept to the right of Cham. I didn't have any contact at all with the city of Cham.

Q You went from Cham to Straubing, didn't you?

A Yes.

Q And you also passed through Reding, did you not?

A Yes, Reding we went through.

Q You also went through Stansreid, did you not?

A I don't know. I don't know where Stansreid is located. Yesterday I emphasized that I was in this area for the first time in my life so that I cannot remember the names of particular villages and so on.

Q When you were going six or seven kilometers to the right of Cham you went through another little village, did you not, by the name of Wetterfeld?

A I went through many villages, but whether I went through one called Wetterfeld I don't know.

Q And while you were at this conference is it not a fact that instructions were given that the prisoners were not to fall into the hands of the Allies?

A No.

Q Nothing of that kind was given at that conference, is that correct?

A I did not hear it.

Q Was your hearing good at the time of this conference?

A Yes. I understand very well. I hear very well also. And if that had been said I certainly would have heard it. And I would have immediately protested against that and said that that was an impossibility because something like that is impossible.

Q Did you know a man by the name of Dr. Adam?

A Yes, Dr. Adam.

Q Isn't it a fact that at that very conference Dr. Adam was the only man who had the courage to protest against that order?

A I didn't hear anything about that.

Q You mean that the whole time you were there at that conference you never heard Dr. Adam make any protest concerning the treatment that prisoners were to receive while on that march?

A No. I only know that Lieutenant Fischer said to Commandant Koegel that the evacuation march was nonsense. It is possible that a conversation took place between Koegel and Adam after the main conference but I don't know that. It is possible.

Q But you do know that it did not take place while the conference was in session, is that correct?

A During the conference, no.

Q You had a detail, did you not, Pachen, that rode along the end of the column to bury the prisoners?

A Yes, that was called the burying detail, but you can't actually call that by that name here because the car which this detail had with it was loaded with baggage, including my own baggage. The car

was almost overloaded with baggage. There were three shovels there and three pick axes and three prisoners were given along to accompany this working detail.

Q And isn't it also a fact, Pachen, that this group of prisoners was increased from three to about ten or twelve the first day?

A I don't know anything about that, but I did hear about it. I don't believe that was on the first day. It must have been a few days later and I believe before Cham.

Q Isn't it also a fact, Pachen, that the business got so brisk that the detail had to pass up burying many prisoners and that was when the Burgomeisters were required to bury the prisoners that were left lying by the side of the road?

A I don't know.

Q As a matter of fact, Pachen, there were a number of prisoners who died within the first hour that this transport got under way?

A In what first hour?

Q The first hour that your column was marching on the road.

A That is something that is impossible. First of all, I would have had to find out about it, and secondly, I would have heard the shots.

Q I didn't say there were shots, I said they died.

A Nobody died.

Q Where was the first prisoner that died from your transport?

A I don't know. I didn't see any.

Q You didn't see any prisoners buried from your column?

A No.

Q But you knew they were dying all the time and they were being buried by this detail, did you not?

A I didn't know that either.

Q Did you ever go from one end of your column to the other?

A Yes.

Q And during the time you went from one end of the column to the other you never saw any prisoners who were unable to continue the march?

A Yes, I saw prisoners who couldn't continue the march and they remained sitting where they were.

Q When was it, Pachen, that the order was changed from shooting prisoners in the head to shooting them in the heart?

A That was about on the third day.

PROSECUTION: No further questions.

PRESIDENT: Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY DR EGGELHOFER:

Q Mr. Pachen, you just said in answer to a question of the prosecutor, that it was about the third day they changed the order that people should be shot in the heart instead of the head, what did you know about this?

A I didn't know about any such order at all. On the morning in question the bicyclist came to me. I was at the end of my column. The cyclist was a non commissioned officer whom I don't know and he shouted at the top of his lungs so that everyone could hear, "An order from the Commandant. No more head shots, only heart shots". And then the messenger drove away. I went to the head of my column and I asked my Platoon Leader of the Guards whether anything strange had occurred. He said that a messenger on a bicycle had just driven by him and shouted out to him, "Order of the Commandant. No more head shots, shots in the heart from now on", and the bicycle messenger drove on to the first column. I asked the platoon leader of the guards

whether he knew about any shooting. He emphasized, "no", and then I said to him, "What kind of an order is that? There isn't any such thing". I said I did not even know how I am going to go about carrying out this order, and as far as I was concerned, the matter was finished, closed.

Q Did this platoon leader of the guard tell you anything about an order he might have had earlier?

A No, he didn't know anything either. He knew just as little about an order to shoot as I did.

Q Is it true, Mr. Pachen that the marching order, the marching sequence of the column, was constantly changing because when one column would be resting it would be overtaken by another column?

A So far as I know, yes. There weren't any instructions which said that the marching column had to keep the same marching sequence with which they started because if that had been the case nobody would ever have moved a step because there wasn't any communication between the individual groups, and as a matter of fact, all the orders which Koegel had given were the purest nonsense. When I organize something I organize it so that it has rhyme and reason.

Q During this evacuation march was the whole thing kept tied together or did the individual marching columns string out so that there were great intervals of space between the individual marching columns?

A What you said at the end is true. They had large intervals between them.

Q Inside the individual columns, did the people string out?

A How do you mean, Doctor?

Q I mean the length of the column. Did it change? Was it all long and drawn out and then would it draw up together again?
(Pachen-Redirect)

Q You mean that the individual marching columns under way would string out like an accordian.

A I was only able to observe that in regard to my own column.

Q Was it true what you said yesterday that you would stop your column in order to let them close up their ranks?

A Yes, and I did that in front of every city and in front of every village.

DR ENGELHORN: No more questions.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Any questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Pachen, do you know a man by the name of Artur Huebel?

A Yes.

Q You are aware of the fact, are you not, that he testified that certain prisoners were shot by the guards of your column?

A Yes.

Q Do you have anything to say about that?

A I only have one thing to say about that. I can't say yes to this question and I can't say no to this question. It is possible that something might have occurred when I was not with the marching column, but I don't believe that, although it is possible.

Q I believe you have testified, Pachen, that you did see a certain number of bodies along the road, isn't that correct?

A Yes, that is right.

Q How many did you see?

A I saw about fifteen to twenty bodies. I can't tell you whether they were all dead or not because some of them were partly

covered up with woolen blankets and some were lying on the open fields as well as on the highways.

Q Were those bodies from your column?

A No.

Q How do you know that?

A Because they were lying there before we got there.

Q Were you at the head of your column when you first saw those bodies or at the rear?

A I was at the head of my column.

Q Did any members of your column die on any bivouac?

A Yes, during bivouac. There were six men but they did not die because of hunger or because of frailty, but one evening when we were making bivouac a terrific fight started and on the next morning I saw six people lying on the ground dead and completely naked.

Q Didn't you tell the court just a short time ago that you never saw any man of your column dead?

A I said that I didn't see any man from my column lying dead on the street under way on the march.

Q But you did see some of the members of your column who had died on a bivouac?

A Yes, six men.

Q Did you see any marks on these bodies to indicate just how they had died?

A Yes, they were lying there with their skulls crushed in.

Q You mean from the effect of shots in the head?

A No.

Q Well, just explain that.

A I saw the bodies lying there that had severe temple injuries here on the front of their head (indicating) and one of them had been stabbed to death.

Q How do you know they hadn't been shot through the head in addition?

A Because I can recognize a shot wound.

Q Now, what became of these men that fell out alongside the road and couldn't continue?

A Upon my order they had been sorted out from the others and some of them did remain sitting there on the side of the road and others who were wobbly would be supported by other members and helped into the nearest vehicle.

Q During the time you were at the head of your column who had charge of the rear of your column?

A Nobody had charge of the end of the column.

Q You mean to say that while you marched at the head of your column you didn't have anybody in charge of the rear?

A No.

Q No officer or non commissioned officer at the rear of the column to check on the rear of the column?

A No, there wasn't anyone there.

Q Is that the usual procedure in the SS?

A No, I only had seventy-five guards with me, SS guards, and they had been on the left and the right of the column and a row of SS men formed the end of the column.

Q You were the only officer in your column?

A Yes.

Q And you didn't designate some particular non commissioned officer to take charge of the rear of the column?

A No. I only had one First Sergeant of the SS, that was the Platoon Leader of the Guards, and he had to march at the head of the column.

Q You had plenty of non commissioned officers among these seventy-five, didn't you?

A I didn't have any.

Q Did you ever receive any reports from any of your non commissioned officers relative to the conduct of the guards?

A No.

Q You say that among those seventy-five guards you only had one non commissioned officer?

A Yes.

Q Who was that one non commissioned officer?

A I don't know his name. He had a funny name and the name has completely escaped my memory. He isn't here either. That was a former Tech Sergeant from the Air Force and had just joined the SS recently and I assumed that he still had his Air Force papers with him and that he was released in his native land. I have desperately tried to locate him here but he isn't here.

Q Were you armed during the course of the march, Pachen?

A Yes, I had a pistol.

Q Did you have any ammunition?

A No, I wasn't able to get any ammunition for my pistol.

Q How were your guards armed?

A My guards were carrying carbines.

Q Did they have any ammunition?

A I don't know.

Q You don't know?

A No, I didn't see any and I didn't ask about it either.

Q You never inspected your guards before you left Flossenburg?

A No, I didn't have any orders to do that.

Q Did that require orders?

A Yes, because these men were none of my business. I was just the officer who had been assigned to that block.

Q When you were assigned to this particular column they were your business, weren't they?

A Yes, then those men were my business. I had to assume when the platoon leader of the guards reported to me according to regulations that he had already been instructed by the Commanding Officer in regard to orders and in regard to men and that the guns had been inspected and the ammunition distributed. It wasn't my task to check that all over again.

Q And you don't know whether those seventy-five men were fully armed and had ammunition or not, is that the idea?

A They were armed, Mr. President, but I don't know whether they had ammunition for their guns.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT COLONEL SKIENVIG:

Q Is that what you call organization when you take over something and really organize it - you don't inspect your guards?

A Well, Lieutenant Colonel, I don't know exactly what I should answer you there. The Commandant was responsible for these formations which had been created there and I had to assume that everything was taken care of. I was a stranger there and I didn't really know what had happened there. At any rate, if a man is carrying a rifle, I assume that he has ammunition for it in such a transport.

Q Pachen, you previously mentioned going out on a patrol in Russia. When you went out did you just assume the men were equipped? Didn't you inspect that patrol when you went out? Did you do everything from assumption?

A At that time there was not any assumption on my part. I was the leader of the patrol and I was responsible to see to it that they were properly equipped and that they got their ammunition. I was the leader of the company. I had to take responsibility and I was responsible for all that concerned my men. As Chief of the company I was conscious of my responsibility and I knew what every man had.

Q Weren't you conscious of your responsibility for these three thousand inmates to get to Dachau?

A Yes, as far as I was able to, yes, but unfortunately I cannot be made responsible for what occurred under way when I was not there. The Commandant had the main power of command over the column and the commandant was always with us.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court at 1000 hours recessed)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Colonel Wilson, who is absent on business of the accused; all of the accused are present with the exception of Olschewski, Oswalt, Lipinski, Hisbusch, Schwanner, who are ill, and Dr. Schmitz and Mathoi, who are conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

HERMANN PACHEN, an accused, resumed the stand and testified further through an interpreter as follows:

EXAMINATION BY THE COURT (continued)

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q When you heard that order, no more head shots, only heart shots, what action did you take then?

A I didn't undertake anything. I went up to the platoon leader of the guard, up to the head of the column, and asked him whether anything unusual had occurred, and he said to me that a messenger on a bicycle, a noncommissioned officer, had just driven by on his bicycle and had said to him that upon order of the commandant there wouldn't be any more shots in the head, only shots in the heart.

Q Did that not raise the question whether or not some previous order had been given? Did you make any inquiries into that?

A Yes. I personally thought to myself there must have been

some previous order, and I asked the platoon leader of the guard whether he had gotten any order to shoot people to death, and he said, "I haven't gotten any order. I don't know anything about that." And no steps were taken in regard to this matter, and I didn't know what I should make of this order at all, because as far as I was concerned as an officer there wasn't any order for me at all.

Q What do you mean there was not any order for you at all? As an officer you were commanding that column.

A Yes. It was my inner conviction, and that also corresponded to the facts, that when a order like that in that form is given to me in such a situation that it should either be given to me orally by the commandant or else a written order, because as far as I know that man might have just suddenly gone crazy and started shouting in all directions something that fell into his head and didn't correspond to the facts at all, and therefore I am very careful about accepting such orders as the real thing.

Q Did you countermand that order and tell this sergeant of the guard to disregard it at the source whether it was authentic or not?

A Yes, yes.

Q Did you definitely countermand that order?

A Yes, by saying to the platoon leader of the guard "We will have nothing to do with this order."

Q You previously stated that you did not have any ammunition when you left with this transport?

A Not I personally, no.

Q Did you have any apprehension at all, Pachen, when you were escorting prisoners of all nationalities--Czechs, Russians, Poles--as to whether something might possibly happen to you, an SS man, on that transport, with only seventy-five guards and over three thousand prisoners?

A Absolutely not.

Q Did you ever know any SS officers to be killed by such prisoners under such circumstances?

A I heard some talk about that. I don't know exactly who was concerned in it.

Q Pachen, in your sworn statement which has already been admitted into evidence--your statement was Exhibit 59--you made the statement that you had received no prescribed route to Dachau, and yet in here you have testified that you did. Which one is correct?

A Yes, on that evening I did hear the commandant mention these towns through which the column would go. I was in this area for the first time in my life, and the only way I found my way was to ask various people under way and get my locations that way.

Q Then you did actually receive a prescribed route, even though you do not remember the names?

A Only got it orally.

LIEUTENANT COLONEL SKIELVIG: No further questions.

QUESTIONS BY THE PRESIDENT:

Q Pachen, when you found that six members of your column had been beaten to death in a bivouac what action did you take?

A I took the following steps: I saw that the people were buried.

Q Is that all you did?

A And reported the affair to the commandant.

Q Did you ever find out how they came to their death?

A Yes, yes. During the night in the bivouac there was a big fight going on.

Q Where were you when that fight was going on?

A I was there next to the street when the fight was going on.

Q Did you hear any shots during that time?

A No, not, because there weren't any guards in this block of prisoners who were quartered there.

Q But these prisoners were from your column, were they not?

A Yes, from my column.

Q You say there were no guards around those particular prisoners?

A No, I said that directly among these prisoners there were no guards. My chain of guards extended around the whole camp.

Q What did you do when this fight started over there?

A For the moment I couldn't do anything, because I believed that that would subside right away.

Q What did you find out about the case when you investigated it?

A The only thing I was able to find out was in the morning when it became light, because the fight had occurred in the darkness, that these people were lying there naked.

Q And then you never found out how they came to their death; is that the idea?

A I knew how they met their death by looking at their bodies. Five of the corpses had severe head injuries, and one man had been stabbed to death.

Q It was very possible for some of your guards to have done that, was it not?

A No.

Q Why not?

A Because they didn't have any contact with the prisoners.

Q Was there anybody there to keep them from having contact?

A The people would have to have taken orders from me directly.

Q Was it not possible for some of these guards who surrounded the group to have gone in there and beaten some of these inmates up?

(Recess - Court)

A No. There were only eight guards which I had set up around the camp, and I had these eight guards relieve the rest of the guards. The rest of the guards were sleeping.

Q You evidently did not make much of an investigation the next morning then, did you?

A I couldn't make any great investigation, because, first of all, the incident had taken place among the prisoners themselves; and, secondly, I could see what had happened to them; and the third reason was that I gave orders that the bodies be turned over to the mayor of the village for burial.

Q Did you ever find out just which prisoners were responsible for it, then?

A There were no prisoners responsible for that. That was a fight which sprung up among the prisoners in the middle of the whole crowd of prisoners.

Q That is just what the court wants to find out. Just who was responsible? What prisoners were responsible for the death of those six men?

A I don't know. I made some investigation to try to find out who it was, but I couldn't find out any names, and it is perfectly clear that in such a category of people those people who have been together that long they still stick together in such a situation. I just can't pick out anybody or some prisoner and say "You have beaten these people to death."

Q If you did not make a complete investigation of it a natural assumption is that your guards might have had something to do with it.

A No. I am absolutely sure that the guards who were doing guard duty at that time have no connection with this matter at all, because that is why the check of the guard was there, and the guards couldn't come into contact with the prisoners at all for that time because they were posted at too great a distance.

(Pachen - Court)

Q Those guards were posted not only to prevent some of these prisoners from escaping but also to maintain order, were they not?

A That was a preventive measure, a security measure, that the guards were placed there to prevent any prisoners from escaping; but as far as the internal order in the camp was concerned I didn't have any power of authority. I never would allow myself to send one or two guards armed with a rifle into such a mob of people, because you never know what could happen and the people might probably be beaten to death, and you never expose anyone to such a danger that he runs a danger of dying there.

Q You have intimated to the court that you did not have any power to maintain discipline among those prisoners. You were the only officer in that column, as I understand it, and you were in command of that column.

A Yes, yes.

Q Do you understand the term "responsibility of command" -- just exactly what it means?

A Yes.

Q You understood that you were responsible for anything that happened within your command or with respect to your command, did you not?

A As far as my authority would allow me, yes.

Q What I cannot understand is that when this commotion took place during the night you did not get over there and find out what it was all about. As a result of that commotion over there, according to your testimony, six men were killed.

A I didn't find out about that until the next morning--that these six people had been killed. That was a fist fight and I couldn't assume that people would be killed in the course of it.

Q But you heard this commotion over there, did you not? They were making a lot of noise?

A Yes. I heard the noise. And beside that it was pitch dark.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Mr. Pachen, did I understand you correctly yesterday? Did you testify that the commandant Koegel once sent you to a private home for the purpose of convalescence?

A Yes.

Q And so, as far as I remember, you spent the night in this private house?

A Yes.

Q I would like to ask you how long you stayed away from the marching column as a result of this illness.

A From the morning of one day at 10 o'clock until 2 o'clock of the afternoon of the following day.

Q That is more than twenty-four hours?

A Yes.

Q Do you know who had charge of the column during your absence?

A No.

Q Do you know who formed the ranks of the various guards for the whole marching column?

A No.

Q How did you get your guards then?

A The platoon leader of the guard reported to me together with the seventy-five men who had fallen in.

Q When you evacuated by night what kind of places did you pick out for bivouacing?

A On open meadows.

Q Can you tell us how big the bivouacing area was for three thousand men?

A I never measured it off by meters or by cubic meters, but I would take a look at the meadow with my own eyes and decide that that would be a favorable position for a camp and that all three thousand of the men could be bivouaced there comfortably.

Q Where did your guards stand?

A My guards stood outside the camp, around about it at a distance of 75 to 100 meters.

Q What do you mean by at a distance of 75 to 100 meters?

A At that distance apart from the camp of the prisoners.

Q Where did the guards sleep who were not on duty?

A They slept in the immediate vicinity, and on the occasions when we had quarters in a village they slept in the barn.

DR. ROSENHOR: No more questions.

PRESIDENT: Mr. McKay.

MR. McKAY: Let the record show that the accused Misbusch and Matloi have returned to the dock.

PRESIDENT: Mr. O'Connor.

MR. O'CONNOR: I would like to ask this witness a question on behalf of the accused Skierka.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Pachen, I am going back to the incident wherein you stated that this noncommissioned officer rode up on his bicycle and issued the order from the commandant concerning shots through the heart and not through the head.

A Yes.

Q Do you know whether that order referred to shots that were to be fired at prisoners who were unable to continue the march or whether it referred to shots that were to be fired at prisoners who were attempting to escape?

A I don't know.

MR. O'CONNOR: That is all.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q These seventy-five or ninety guards that you had there were under your command, were they not?

A Yes.

Q And you also testified to the court that you know that these guards did not have anything to do with the death of these six men because they took orders from you personally; is that not correct?

A Yes. Mr. Prosecutor, you can take that as you please. I have already explained.

Q That is the truth, is it not?

A That the guards took orders from me?

Q Personally, yes.

A Yes.

Q You have also testified that Koegel was always around. I will ask you now why it was that you did not ask him about this order changing the position at which prisoners were to be shot from the head to the heart.

A I did that.

Q And what did he say?

A He said I shouldn't get excited about that; that it was none of my business. He said that he would bear the responsibility for that.

Q Did you tell him at that time that you were not carrying out

that order?

A Yes, I did tell him that. I said that I didn't know what I should do with this order, and that man kept giving me evasive answers.

Q And did he tell you that if you didn't carry out those orders he would shoot you through the head right then and there?

A No, he didn't say that then.

Q But you did tell him that you were not going to carry out the order; is that right?

A Yes.

Q And Koegel said, "That is all right. You need not carry out the order." Is that right?

A He didn't say that it was all right and that I didn't have to carry out the order. He gave me evasive answers, however, and said that he would have the responsibility and he would carry the responsibility for it and not I. I don't know why he didn't give me answers to my questions.

PRESIDENT: Just a minute. Colonel Wilson, do you have something?

DEFENSE: May it please the court, I would like the court's permission to take Ginschel out for consultation.

PRESIDENT: The court will approve the matter.

QUESTIONS BY PROSECUTION:

Q All right. Did you ask Koegel for an explanation of this ambiguity that he was giving you?

A Yes, I did ask him for that, and he didn't give me any answer at all. Why I don't know.

Q And on what day was it, Pachen, that you asked him concerning this order?

A That was on the same day.

Q And what time of day was that?

(Pachen - Recross)

A That was in the evening.

Q And what day was it that you were away from the column?

A On the fifth or the sixth day. That was behind Straubing.

Q When you say behind Straubing do you mean east of Straubing or do you mean west of Straubing?

A In this direction. Toward here.

Q In other words, you mean you were nearer Regensburg than you were toward Flossenburg; is that correct?

A Regensburg?

Q You were on the Regensburg side of Straubing rather than on the Flossenburg side of Straubing?

A No, I was not on the Flossenburg side.

Q Did you designate someone to take your place when you were absent from the column?

A That was the platoon leader of the guards.

Q And you do not know what his name was?

A No.

Q Did you report to the platoon leader the conversation that you had had with Koegel with respect to this order about changing the position of shooting of the prisoners?

A No.

PROSECUTION: No further questions.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL SMYLY:

Q Yesterday you testified that you never heard anything about any shooting order. Now today you tell us that Koegel himself told you he wanted the spot changed where you were to shoot them. How about that?

A I didn't hear any shots. I didn't hear any shots fired at all, in spite of the fact that this order was personally given to me and I

had to assume that the other marching columns got the same

Q Where was this order personally given to you?

A That was in the street during the march.

Q By whom?

A Through a noncommissioned officer on a bicycle. He shouted it out so loudly that everyone had to hear it. He didn't even get off his bicycle. He kept moving.

Q I just understood you to say that Koegel himself had a conversation with you right after that?

A That was in the evening. That's when it was. The messenger reported that to me in the morning and I didn't have any conversation with Koegel until the evening.

Q What did Koegel tell you on this conversation?

A I asked him how it stood with this order which had been given in the morning in regard to head shots and heart shots. He said I shouldn't worry about that; that it was his business. And he didn't give me any answer to my question which had rhyme or reason. He was excited. He was scolding around, and I didn't have any reason to ask him any more questions.

Q In other words, he told you "never mind about carrying out his orders." Is that true?

A No, he did not say that. Not in that meaning.

Q Were you to carry out those orders or were you not to carry them out?

A No. He did not tell me that I should carry out these orders in the evening. He didn't have any idea what I should do with this order at all.

Q You did not get the thing straightened out before you left him?

A No.

Q In other words, when you left Koegel you did not know whether you were to carry out his orders or whether you were to refuse to

carry them out; is that true?

A That is right; yes.

Q Did he ever rescind the order?

A I didn't find out about anything like that.

Q Did you ask him then whether he wanted that order carried out or rescinded?

A No.

Q You just left the whole thing up in the air; is that true?

A Yes, the question stood up in the air. I never made use of this order because the order is nonsense.

Q As far as you are concerned you never heard a man in your column shoot a weapon during the whole course of your march down from Flossenburg to Dachau; is that true?

A No; that's right.

Q And you never saw a dead body except for those six dead bodies you saw in the camp?

A With the exception of those six and also with the exception of the 15 or 20 corpses which were lying on the road before we reached them. I didn't see any other bodies beside them.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q Did you ever pass Koegel's order around to your guards?

A No.

Q Was it just the one night you heard the fight in the prisoner camp?

A Yes.

QUESTIONS BY THE PRESIDENT:

Q The main reason you did not go in there was because it was like going into a cage of wild animals; is that the idea?

A That's right.

(Pachen - Court)

Q All the guards felt about the same way about it; is that right?

A It wasn't up to the guards to say anything about it. They had to continue their guard duties, but I will be careful before I go into such a mob.

Q But you had a pistol, did you not?

A Yes, I had a pistol.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q In fact you and the whole guard detail looked on them as a bunch of wild animals; is that right?

A Colonel, you can't really say that. We were just looking on. We couldn't see anything. It was dark.

Q On this order concerning head shots or heart shots: You didn't understand why they should shoot a man in the heart when it was more effective to shoot him in the head; is that right?

A I didn't have any reason to follow this order. There must have been some logically thought out previous order.

Q So you just let it go as it was--to shoot them in the head; right?

A The question remained open, because I had not received any previous order and I didn't know what I should do with this nonsensical order. And beside that I didn't know whether the commandant himself actually had given this order or not. It would have been possible that somebody could suddenly have got a crazy idea and started shouting about this order underway, and I am certainly not going to carry out an order unless I know that the order is official.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q Did you not just testify that you did not hear any shots, while you were on that march from Flossenburg to Dachau, by your guards?

A My guards never fired shots. As we were underway I heard a lot of shooting, but at a great distance. But there was no shooting in my group.

Q Pachen, did you not testify yesterday that at that rest on the first night, just when you started off, the prisoners took off into the woods and that you heard your guards fire shots then?

A Yes.

Q Near the Pilsen-Weiden main road?

A Yes, that is right; but as I found out they were not shots fired at prisoners. They were merely shots for alarm in order to tell me what was going on so that I would stop the column and come to the rear and find out what was going on.

Q Those were your guards, were they not?

A They were my guards, yes.

Q How many more times did you hear the guards fire shots during this march that you have not mentioned? Just such incidents as these.

A I didn't hear any more.

LIEUTENANT COLONEL SKIELVIG: No further questions.

PRESIDENT: Further questions by members of the court.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q The prisoners never tried to escape any more after that; is that right?

A They were already gone.

Q No other prisoners tried to escape?

A No.

QUESTIONS BY COLONEL JACKSON:

Q Who was in charge of your guards.

A The platoon leader of the guards had the guards under his orders.

Q What rank did he have?

A That was a first sergeant of the SS.

Q Did you issue your orders to each individual guard or did you give orders to the guards through this platoon leader?

A I never gave any order at all, because I didn't have any reason to give an order.

Q Well, you made a statement not long ago--I believe it was to the prosecutor--that you dealt right with the guards yourself and you knew they couldn't have gone into this camp.

A They would have had to get an order from me personally to interfere there.

Q Did you give orders to each one of your 75 guards or did you handle your orders through the sergeant of the guard?

A The platoon leader of the guard would have had to pass the orders on to the guards if I had given any order.

Q Did anyone else beside you have power to issue orders to this sergeant of the guard?

A Nobody beside me would have had authority to give orders to the guards.

Q Yesterday afternoon the prosecutor asked you about a couple of German societies that you belonged to; can you tell us about those?

A Yes.

Q What have you got to say about them?

A I was a member of the Party; I was a member of the Allgemeine SS; I was a member of the German Workers' Front; and other than that I didn't belong to any organization.

Q What were those other two to which you paid dues?

A That was the national air protective society. I didn't actually belong to that, because if I had belonged to the national air protective society I would have had to do service in it and I would have had to carry a uniform. We were just members who paid our dues, and the way it was was that every family in the whole country that belonged to this national air protective society had to pay ten pennies every month. The purpose of this society was in case of air raids to quench the flames of burning houses, if possible to rescue people out of these houses, and to rescue all the property that could be rescued.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q When you say you never issued any order, do you mean written order?

A I never gave any order--never any written order and never any

oral order, because I didn't need to do that. Everything was going all right.

PRESIDENT: Further questions by the court? Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Mr. Pachen, do you still remember accurately the route which your march column took?

A I do not remember it any more exactly. I only know that I touched the cities Strauting, Roding, and Landshut.

Q I ask you this question, Mr. Pachen, because in a written document which you have made you said that the first city the march reached was Regensburg.

A Then I will have to beg your pardon. That is a mistake in that writing.

Q Can you tell the court very briefly what the letters DAF stand for?

A DAF stands for German Workers' Front, and that was a newly founded organization for the former union organization. It was duty. It was necessary that every worker, every employee, and every official had to belong to this party, this DAF. There wasn't any other way out; you had to belong. Every month the dues which had to be paid to this organization were drawn from the pay checks of the workers, the employees and the officials. The firm kept the membership book of this party, DAF, German Workers' Front, and all the worker had was a little red card in his hand on which was written the fact that he belonged to the German Workers' Front, and that the book was in the custody of the firm, and that the book would be turned over to him when he left the firm, and the book remained the property of the German Workers' Front.

Q Was there any pressure put on city employees and state employees that they become members of this party?

A Yes, there was pressure put on anyone who would try to object--try to refuse--but nobody ever asked anyone about it. The membership would be sent in by writing, and there would be

registered, the book would be issued, and the book would be sent to the firm in question, and from that moment on the worker or the employee in question would have to start paying his dues to the German Workers' Front.

Q As far as you know, did you ever hear of any city employees who were not members of the German Workers' Front?

A There were no such people. That was duty, that's what it was.

Q And if anyone had refused to become a member, would anything have happened to him then?

A And then he would have really been thrown on the streets by the German Workers' Front.

Q You mean that he would have been fired then?

A Yes, he would have been fired without respite. That was not any pressure the firm put on anybody; that was pressure by the German Workers' Front.

Q Can you tell us the aims of the German Workers' Front and what advantages the members of the German Workers' Front had from it?

A The members of the German Workers' Front were all embodied in one body, and in case of and whenever any trouble came up in their place of work the German Workers' Front would represent the people involved; and when the German Workers' Front used their power to represent these people in behalf of the workers against the person who was giving the work, the employer, it didn't cost the members anything. That led to the fact that an employer couldn't do what he wanted with his employees. That is the same viewpoint which the new Workers' Unions represent which have appeared today.

Q Did the German Workers' Front take action and try to negotiate a settlement when trouble existed between employers and employees?

PROSECUTION: Objected to on the ground that it is leading and suggestive.

PRESIDENT: Objection sustained.

Q What other aims did the German Workers' Front have beside those aims which you have just mentioned?

A The German Workers' Front also helped employees by seeing to it that they got jobs. That as well as the workers' office would help them.

Q Do you know this movement "Strength Through Joy"?

A Yes, I know that also, and this movement forms a part of the German Workers' Front.

Q What purpose did this organization have?

A The organization Strength Through Joy had as its main task to make the life of the worker pleasant aside from his work. They decided that a worker who had been living in a city for 20 or 25 years shouldn't have to sit there in that town after working hours all alone but that he should take a look at Germany. He should come to different areas of the country; he should learn to know various peoples; and he should convalesce somewhere else. And he also had the opportunity of taking sea voyages.

PRESIDENT: Just a minute, Doctor. The court doesn't feel this is material to the issue.

DR. ENGELHORN: Yes, it has gone a little too far. I have no more questions.

PROSECUTION: May I ask one question, sir?

PRESIDENT: Yes.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did you see these 15 or 20 bodies before or after the time you left the column for convalescence?

A before I left the column in front of Cham.

PROSECUTION: No further questions.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q You did not issue any order. Do you mean by that that you did not issue any formal field order for this march? Is that what you mean?

A Yes, that is what I meant to say.

Q It was not necessary because the guards knew what they were supposed to do; is that right?

A Yes, that's right.

Q You got back to the tail of your column sometimes; is that right?

A Yes.

Q How far behind the last prisoners were your last guards?

A They were marching directly at the end of the column. The five guards formed the end.

Q This wagon that carried the baggage and the burying detail: How far behind was that?

A They were far away. While we were underway I suddenly missed First Sergeant of the SS Mussfeldt with his wagon. The man was missing for one and a half to two days, and that was before we reached Cham. He suddenly came to me all excited and said, "First Lieutenant, I can't do it any more."

I said, "What is the matter with you, Mussfeldt?"

The man could hardly speak any more. He said, "I have left that salad behind me. I can't do this work any more. I am through." And then I asked him to at least give me the reason--what

was going on; and he said that back there about the third and fourth column there were terribly many dead people. I naturally kept him with me then, because that wasn't his job.

Q Your column was about 2 kilometers long part of the time; is that right?

A Two to two and a half kilometers when the column was elongated.

Q How far can you hear a rifle shot?

A That all depends on how the wind is blowing. I can't tell you exactly right now. For instance, I could tell you how far away I could hear a shot if you ask me how far away a shot was fired at that moment when I heard it.

Q You can't hear it nearly as far if it is raining, can you?

A It is still harder to hear when it is raining because there isn't any clear air.

Q And you had quite a bit of rain on this march; right?

A You can't really say we had a lot of rain, but it rained. But after all when it starts raining it always stops.

Q So you actually would not be able to tell if a shot was fired at the tail of your column was with that column or another, would you?

A Yes, I would certainly have been able to determine that, because the nearer to me a shot is fired the more accurately I can tell where it was fired.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY THE PRESIDENT:

Q You mentioned that the name of the individual with the vehicle was Mussfeldt.

A Mussfeldt, yes.

Q Is that the same Mussfeldt in the dock?

A Yes.

PRESIDENT: Any further questions by members of the court? Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q You were in the infantry in the war of 1914-1918, were you?

A Yes.

Q Can you estimate at what distance a shot was fired if you hear one?

A Yes, yes.

Q You can also tell whether the shot was fired behind or in front of your column, can you not?

PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection sustained.

Q Can you notice the difference if a shot is fired in front of your column or if a shot is fired behind your column?

PROSECUTION: I object to that as being leading and suggestive.

PRESIDENT: Objection sustained.

Q Did you ever hear any shots which might have been fired inside the column according to your estimates?

PROSECUTION: Objected to on the ground that it is leading and suggestive.

PRESIDENT: Objection sustained.

Q Can you give any further statements about shots which you might have heard?

A I already talked about that. I said that I heard some shots fired, and sometimes it sounded as though it might have been machinegun fire, and I often heard that tanks were shooting. I don't know where that was.

Q Did you ever find out that any guards with this evacuation column had machineguns with them?

A I didn't have any machineguns. What should I do with them?

Q Where did you think this shooting was occurring when you heard machinegun fire?

A I especially heard it around Cham, and I assumed that the enemy was approaching, and my men, of course, couldn't give any rapid fire with their weapons because the weapons weren't rapid fire weapons and the guards of the other columns were the same as my men in that respect.

DR. ENGELHORN: No more questions.

PRESIDENT: Recross?

PROSECUTION: No more questions.

PRESIDENT: Pachen, do you wish to make any further statements to the court at this time?

THE WITNESS: Mr. President, for the time I don't wish to make any more statements to the court.

PRESIDENT: The court understands the defense is finished with this witness for the time being.

MR. McHEY: That is correct, sir.

PRESIDENT: The witness will be excused and will resume his position in the dock.

(Whereupon the witness did as directed.)

PRESIDENT: Court will adjourn.

(Whereupon the court adjourned at 1200 hours.)

Take-581

Camp Dachau, Germany
6 November 1946
1330 hours.

AFTERNOON SESSION

PRESIDENT: The Court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the Court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business for the prosecution, all of the personnel of the defense are present with the exception of Dr. Engelhorn, who is absent on business of the accused, and all of the accused are present with the exception of Lipinski, Olschewski, Oswalt, who are ill and Dr. Schmitz and Wurst, who are conferring with counsel, and the interests of those named, the accused who are absent, are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

MR. MCKAY: The next witness being called on behalf of the accused No. 5, is Ludwig Wurster.

LUDWIG WURSTER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Will you state your name for the court?

A Ludwig Wurster.

Q How do you spell your last name, Mr. Wurster?

A W-u-r-s-t-e-r.

Q Where do you reside at the present time, Mr. Wurster?

A In Nurnberg.

Q What duties were you performing during the months from February to April of 1945?

A I was messenger for chief capo Bongarts.

Q And with what camp were you associated at that time?

A Camp Hersbruck.

Q Do you know what connection Hersbruck had with the camp of Flossenburg?

A No.

Q In what capacity were you connected with the Camp of Hersbruck?

A I was ordered to go there as a member of the Army.

Q And in what capacity did you serve at Camp Hersbruck — as a Wehrmacht soldier?

A I did messenger duties for the chief capo Bongarts.

Q On what detail did Mr. Bongarts work?

A Commando, Nuernberg — work detail, Nuernberg.

Q Will you explain to the court just what the detail Nuernberg was doing during the time that you were messenger for Bongarts?

A We did earth work, we shoveled up holes, filled up holes that had been made by bombs, and defective rails were changed, and we made excavations.

Q When did you begin to be associated as messenger with Bongarts on the detail Nuernberg? What date?

A That probably began between the 22nd and 24th of February.

Q Of what year?

A 1945.

Q And how long did you continue to be associated with Mr. Bongarts on detail Nuernberg?

A Until the 8th of April.

Q Of what year?

A 1945.

Q Now, you described Mr. Bongarts as obercapo. What do you mean by the statement obercapo?

A Chief capo. Bongarts had to supervise the work that was

going on in the various groups here and there.

Q Will you explain to the court, your best judgment, as to the number of men that worked on detail Nuernberg under Mr. Bongarts, each day during the period of time that you were associated with him as messenger?

A 750 to 800.

Q Will you describe for the court just how this detail Nuernberg left Hersbruck each day?

A Early in the morning at 6:00 o'clock.

Q And what means of transportation was used to take the detail from Hersbruck to Nuernberg?

A With the railroad.

Q Will you describe for the court what happened with the prisoners upon their arrival in ~~Nurnberg~~ Nuernberg, in the morning to go to work?

A These people arrived at the railroad station and were split up into columns.

Q How many columns?

A Seven to eight columns.

Q Can you give the court any idea of the approximate number of men that would make up each of these columns?

A There were 100 men in each column.

Q Will you explain to the court just who had the immediate supervision of each column?

A There was a capo put in for that purpose.

Q Will you explain to the court just what happened with these seven or eight columns after they were split up, with regard to the location of where each column worked?

A Yes. Each column was put to work at a place where the

work was necessary.

Q Now, you stated that the detail broke up into columns near the railroad station of Nuernberg. Did the detail work in the station or some distance from the station?

A The columns were separated and worked at different places all depending upon where the work had to be done.

Q Can you recall what particular type of construction work was being done by the various columns on the Nuernberg Detail for the period of some four weeks prior to the evacuation of the Camp Hersbruck?

A No. You mean for four weeks before the evacuation?

Q That is right.

A Yes, they had to work on a branch spot outside of the railroad station.

Q Mr. Wurster, I hand you a diagram which has been marked Defense Exhibit 38 for Identification, and I ask you if you can tell me what that represents?

A This here (indicating) is this branch spot.

Q Will you with this pen mark the spot which you have indicated as the branch with the letter "B". (indicating)

A (Indicating)

Q Now, when you stated that the detail worked on the branch or switch, can you give us any idea of how long, prior to the evacuation, that the detail Nuernberg worked on the switch?

A This work was begun approximately four weeks before the evacuation.

Q And do you know whether that continued during the entire period up until the evacuation?

A Yes.

Q Now, will you tell the court how many of the columns actually worked on this switch during that period of four weeks

immediately prior to the evacuation?

A I estimate five to six columns.

Q Where did the other columns work that were on detail Nurnberg?

A One part in the PW.

Q What do you mean when you say "PW"?

A That is the main railroad office.

Q How far was it from the switch where these five or six columns worked to the place where the column worked in the main railroad station?

A About two to two and one-half kilometers.

Q Now, you stated, Mr. Wurster, that you were the messenger for Mr. Bongartz; will you explain to the court just what your duties were as messenger for Bongartz?

A I accompanied Bongartz from one column to the other, where he had to check around.

Q Now, will you explain to the court just what the guard setup was with regard to the various columns that worked on detail Nurnberg during the period of the last four weeks prior to the evacuation of Hersbruck?

A As a chain of guards.

Q Well, now, will you just explain what the situation was with this chain of guards. I have in mind the guards for the various columns. How were they formed to take care of each of the columns that worked on the detail?

A The guards formed a circle around -- about.

Q Well, will you explain whether that circle was around all of the columns or each individual column?

A Each column had a circle around it.

Q Can you give the court any idea of the number of guards that would surround each of these columns?

A About eight guards.

Q Now, you stated that Mr. Bongarts went from each column, or went from column to column supervising the work, did you have an opportunity to observe how Bongarts treated the prisoners in these various columns during their work?

A If anything had happened, I would have seen it.

Q Well, just what did you see in regard to Mr. Bongarts's treatment of prisoners who worked on the various columns under him?

A I must say then that I can't say anything bad about that.

Q Well, what do you mean when you say you can't say anything bad about that?

A I mean to say by that that he didn't hit anyone; that is to say, he didn't hit anyone so badly that he was physically wounded.

Q Well, did he hit anybody at all?

A I saw that once or twice — a box on the ear.

Q Well, describe for the court just how Bongarts would administer that box on the ear that you have just told us about?

A With his hand.

Q Were you with Mr. Bongarts's detail each day during the period of time from February until April in the year 1945?

A Yes.

Q Will you explain to the court what the situation was with regard to the detail Nurnberg working on Sundays during that period of time?

A The only day that I still can remember when we had free, when we were off, was an Easter Sunday.

Q And what year was that?

A 1945.

Q Were you ever present with Mr. Bongarts at any time when Mr. Bongarts tried to change the situation with regard to the working days for his detail Nurnberg?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: The objection is sustained.

MR. MCKAY: Q Well, will you explain to the court what, if anything, happened during the time that you were associated with Mr. Bongarts with regard to the work situation of the detail Nurnberg?

A Pardon me, but how should I understand that?

Q Will you repeat the question, Miss Reporter?

(Last question read by the reporter)

A I can't explain anything more.

Q Well, during your activities as messenger, did you ever accompany Mr. Bongarts when he would have any associations with the railroad officials?

A Yes.

Q Will you explain to the court what, if anything, happened during the course of those meetings of Mr. Bongarts with the railroad officials with regard to the detail's working days?

A I know that Mr. Bongarts made an effort to get one day off every two weeks. He made this attempt with the railroad officials.

Q Will you explain what the success was of those efforts on the part of Mr. Bongarts?

A Mr. Bongarts went to a railroad official and attempted to get one day off every two weeks for his men. I remember that this railroad official promised him that he would do what he could about it.

Q Well, following that, did you ever observe whether the detail got any Sundays off?

A The only day I can remember is Easter Sunday.

Q Now, Mr. Wurster, you stated that one of the columns that worked under Mr. Bongarts worked in the main railroad station. Did you ever accompany Mr. Bongarts when he would visit that detail?

A Yes.

Q Just what type of work was being performed by that column which was working in the main railroad station?

A Mason work.

Q Is that all?

A And they cleaned up; they threw dirt in holes that bombs had made.

Q Will you explain to the court what the situation was surrounding the detail that worked in the main railroad station with regard to box cars and the like, being located on the tracks there?

A There weren't any box cars in the main railroad station at Nuremberg.

Q Now, Mr. Wurster, you said five or six of the details, five or six of the columns of the detail Nuremberg worked on the switch and one column worked in the main railroad station. Where were the other columns, or column, working during that time?

A I already mentioned one part in this main railroad office section. I don't know where anyone else might have worked.

Q Well, now, you stated that in the morning the column would break up into some seven or eight columns. You have stated that five or six worked on the switch and one in the railroad yard. That leaves one column to be accounted for yet. Do you know where that column worked?

A One column -- assume that one column worked in the main railroad station, five to six columns worked on this branch spot,

this railroad siding, and the rest would have to work in the main railroad office section.

Q Now, when the detail Nuernberg would leave Hersbruck and arrive at the railroad station, did you observe whether there were any personnel in the detail that didn't go into one of these columns for work --

COURT INTERPRETER: Pardon?

MR. MCKAY: Read the question, please.

(Last question read by the reporter)

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: The objection is sustained.

MR. MCKAY: Q Mr. Wurster, will you explain to the court what the situation was when detail Nuernberg would arrive in the morning, with regard to the personnel going into these columns to work?

A The splitting up of the personnel into groups or columns respectively had already been taken care of in the camp.

Q Well, will you explain what the situation was with regard to personnel after they would arrive at detail Nuernberg with regard to any personnel other than those that actually broke up into the columns themselves?

A At 6:00 o'clock in the morning we took off and the group which was working at the East railroad station was unloaded at the main railroad station and the rest of us went to this other railroad station where we had to do our work.

Q Well, now, Mr. Wurster, will you explain to the court what, if anything, you saw with regard to preparations being made on detail Nuernberg for the feeding of prisoners while they were working on the detail?

A The food was prepared by three men who were designated for that job, and just before 12:00 o'clock the capos would come and get the food.

Q Now, do you know what type of people those people were who had the job of preparing the food?

A I can remember they were Poles.

Q Will you give the court an idea of the nationality of the prisoners as a whole who worked on the detail Nuernberg?

A Various nationalities. Poles, Frenchmen, Ukrainians, Russians — I can't remember anymore.

Q Will you explain to the court whether you ever left the detail Nuernberg during the course of a day so that you were not present with the detail for a period of time?

A That could have happened two or three times in this short period of time.

Q And how long would you be gone from the detail on those occasions?

A Four to five hours.

Q Do you think that you could recognize Mr. Bongarts, if you saw him again?

A Now?

Q Yes.

A Yes.

Q Will you look over the men seated behind me in the dock and see if you can find the man that you knew as Bongarts? Come down and point him out.

A No. 5. (Standing — pointing)

(Accused No. 5 rises — sits down).

(Witness resumes his seat on the witness stand)

MR. MCKAY: Let the record show that the witness identified the accused wearing No. 5 as Bongarts.

Q Now, you stated that Mr. Bongarts was obercapo. Will you explain what his status was with regard to his position in the camp? Was he a prisoner, an SS man, a civilian or what?

A I don't know his status in the camp.

Q Well, what was his status on the detail?

A As chief capo.

Q Well, now, I want to know whether he was on that detail, whether he was a civilian, a soldier, a guard or a prisoner?

A Prisoner.

Q Now, were you present in the evening when the detail would return to Hersbruck?

A Yes.

Q Will you explain just what occurred when the detail made ready to return to Hersbruck from Nuernberg?

A The people assembled again, according to columns, and every man would then go back.

Q Will you explain just what you saw at these assemblies in the evening with regard to sick or injured prisoners?

A I didn't see anything.

Q What do you mean by that when you say "You didn't see anything?

A I didn't see any wounded people.

Q Did you see any sick people?

A I didn't see them either.

Q What time of the day would the detail Nuernberg leave Nuernberg to return to Hersbruck?

A I can't remember exactly, between five and five-thirty.

Q Of what part of the day?

A In the afternoon.

Q From your contact with Mr. Bongartz on detail Nuernberg, can you explain to the court just what authority had charge of the administrative matters of detail Nuernberg at the time that it was actually in the railroad station working?

A I didn't understand it correctly.

COURT INTERPRETER: Read it again, please.

MR. MCKAY: Read the question.

(Last question read by the reporter)

A The National railroads.

MR. MCKAY: Dr. Wacker has some questions.

DR. WACKER: I have several questions for the accused No. 43, Schwarz.

QUESTIONS BY DR. WACKER:

Q Who was the commandant of the Camp Hersbruck or the outside camp of Hersbruck this time when you were serving as messenger and would go to Hersbruck?

A Who the camp commander of Hersbruck was?

Q Yes.

A Mr. Schwarz.

Q Do you know him personally?

A Yes.

Q Can you recognise him if you would see him again today?

A Yes.

Q Please point him out?

(Whereupon the witness left the witness chair and points to No. 43, accused Schwarz)

(Accused No. 43 rises - sits down.)

(The witness resumes the witness stand)

DR. WACKER: Let the record show that the witness has identified No. 43 as Schwarz.

Q Do you know how the work detail Nurnberg was organized -- from whom the work was received?

A No.

Q What officers went along from -- to Nurnberg?

A Nobody.

Q Who had charge of the prisoners at the whole work detail when it arrived at Nurnberg?

A A work detail leader.

Q Who was that?

A His name was Ostertag. That was the work detail leader.

Q And who had charge of him in Nurnberg?

A I can't say from whom he took his orders.

Q Who decided at Nurnberg what work would be done?

A That was a 1st Lieutenient Schill.

Q And to whom did this Mr. Schill give the work directions -- what work would be performed?

A He gave them to an official of the railroad.

Q Who was that?

A Railroad official Else.

Q And what did he do then?

A He assigned the various jobs.

Q I would like to know how he took up the thread from there. Did he give orders to others, to Ostertag or to someone else, or what did he do?

A Chief capo Bon arts had taken up the order.

Q Were you there at that time?

A Yes.

Q Please describe again what you had for duties in Nuernberg?

A My duty as a messenger consisted of accompanying Bongarts wherever he went.

Q Do you mean to say by that that you were there in order to prevent Bongarts from escaping if he wanted to?

A No.

Q What was your duty then?

A He wasn't allowed to walk around alone without supervision because he was a prisoner.

Q Please explain that in greater detail. I assume that the other prisoners weren't allowed to do that either?

A After the chain of guards had been put up around the column of prisoners no prisoner could leave the column unless a guard accompanied him.

Q And how did this differ with Bongarts?

A Bongarts would go from column to column or from the side railroad station to the main railroad station.

Q And did you constantly have to accompany Bongarts?

A Yes.

Q Howwas this train which traveled between Herebruck and Nuernberg fixed up in regard to food and doctors and so on?

A I can remember that there were two doctors assigned to this work detail.

Q Do you know their names?

A No.

Q Were these doctors always there or were they there just on occasions?

A They were always there.

Q How was the food situation in the Nuernberg work detail taken care of?

Tk 1:30
15

A The food was prepared by three Poles and just before twelve o'clock the capos from the various columns would come and get it.

Q Was the food taken all the way from Nuernberg to — from Hersbruck to Nuernberg or was the food picked up in Nuernberg?

A The food was taken from Hersbruck.

Q Where did people eat their food?

A At the railroad station and wherever they were working.

Q Out of doors or where?

A Yes.

Q How was the food distributed?

A Every capo would come to get the food for his men and chief capo Bongarts had to supervise it, to see that each got the portion assigned to him.

Q Did you see what the prisoners received to eat?

A Yes.

Q Please describe what the prisoners in general got to eat?

A The prisoners got bread, sausage and butter.

Q Was it the same every day?

A Yes.

Q Didn't they ever get hot food?

A Coffee was also given out in addition.

Q Do you know what the prisoners in the camp got to eat?

A No.

Q I mean, those who worked in Nuernberg?

A No.

Q Didn't you have any insight into that in the camp?

A No, never.

Q Do you know how much bread and sausage they got?

A I can't estimate it according to weight, but I know that four men had to split one loaf of bread.

Q And how much sausage?

A I assume fifty grams. It could have been more. I don't know exactly.

Q Do you remember that the work detail Nurnberg was subjected to an air raid?

A Yes.

Q Please describe what happened on that occasion?

A Every capo was interested in trying to get cover and protection for his group.

Q Were there people killed and wounded on that occasion?

A No.

Q In the evening did you go back to the Camp with the train from Nurnberg?

A Yes.

Q Please describe how it was when the people marched into the camp, that is, how they checked, whether all the people were present or not?

A The work detail went back by rail and picked up this group which had been working at the east railroad station — they picked them up at the main railroad station and after they had arrived at Hersbruck they marched in closed ranks into the camp.

Q Did they check at the gate when you marched into the camp how many came and how many were missing?

A Yes.

Q Did you ever arrive in Hersbruck and have people missing or not?

A I can't remember it.

DR. WACKER: No more questions.

PRESIDENT: The court will take a short recess in place.

(Thereupon at 1435 hours a short recess was taken until 1442 hours).

PRESIDENT: The court will come to order. Cross examination.

CROSS EXAMINATION

QUESTIONS BY MR. PERKOWITZ:

Q Now, Mr. Wurster, were you a member of the Wehrmacht at the time you were performing these duties?

A Yes.

Q What was your rank?

A Private.

Q What do you mean by the term "messenger"? A messenger from whom to whom?

DR. WACKER: I don't know whether the word "messenger" is correct here and the question that the prosecution has just posed makes me think that it isn't.

PRESIDENT: Well, Dr. Wacker, that is the way the record reads right now.

DR. WACKER: Then I will have to object to having the word "laufer" translated as "messenger."

MR. PERKOWITZ: That is why I would like to ask the question - to clear it up.

PRESIDENT: All right. The interpreter will check the matter.

(Whereupon the interpreter did as directed)

COURT INTERPRETER: May it please the Court, "messenger" is in the dictionary for "laufer."

MR. BERKOWITZ: May it please the court, I object to Dr. Wacker using other German terms which are within the hearing of the witness to suggest what description he should give.

DR. WACKER: This word can have the meaning "messenger" but in this particular instance it can't mean messenger because the prosecution has asked the witness — messenger from whom to whom — and I rather feel it is a man who goes along with him.

PRESIDENT: The objection of Dr. Wacker is overruled. If necessary, this matter can be cleared during the course of redirect examination. The record shows that the man was a messenger and that is verified by the dictionary. Bring the matter out on redirect examination. Proceed.

MR. BERKOWITZ: Q Will you answer my question. Messenger from whom to whom?

A Of chief capo Bongarts. I accompanied him.

Q Well, did he send you with messages?

A You can assume that I went on errands.

Q And where would he send you on these errands?

(At this point there was a murmur in the dock)

PRESIDENT: At ease; at ease.

A There was a misunderstanding. I accompanied chief capo Bongarts wherever he went.

Q Didn't you just say he sent you on errands?

A Yes, when he asked me.

Q And where would he send you with these messages?

A When he went from one column to another I had to go with him.

Q Yes, but answer my question.

A What question now?

Take 581

19

Q Well, you just said he would send you with messages. To whom did you deliver these messages?

A When Mr. Bongarts went from one place of work to another I had to go along. You can't explain it any other way.

Q Now, when Mr. Bongarts was at one place of work, didn't he send you with messages to other places of work?

A No.

Q Well, where did he send you with messages?

A Whenever he went.

Q Well, you said a moment ago you carried messages for Bongarts. Now, to whom did you carry these messages?

(At this point there was a murmur in the dock)

A I accompanied Bongarts on the way when he went from column to column.

PRESIDENT: Now, Mr. Prosecutor, the Court feels we are wasting time in regard to this word "messenger." If you desire to find out whether or not he was a guard so phrase your question.

MR. BERKOWITZ: Q Now, you accompanied Bongarts when he went from one place to another, from one column to another. Did you accompany him while he was with each column?

A Whenever he was with a column I stayed there standing with him.

Q Where did you stand?

A In his immediate vicinity.

Q Did you remain with the chain of guards when he was with a column?

A Yes.

Q And you did not accompany him inside the chain of guards?

A No.

Q Now, when Bongarts was inside the chain of guards, and he

wanted a messenger carried to another column, did you carry that message for him?

A No.

Q Did you ever carry messages for him?

A No.

Q Now, where did the prisoners work? Where did the prisoners work in shifting cars from one track to another?

MR. MCKAY: That question is objected to as assuming a fact not shown by this witness' testimony, therefore, I object.

PRESIDENT: The objection is sustained.

MR. BERKOWITZ: Q Did you see the prisoners shifting cars?

A No.

Q Were you never with that column that had the job of shifting cars?

MR. MCKAY: That is again objected to for it is assuming a fact not shown by this man's testimony.

MR. BERKOWITZ: May I argue?

PRESIDENT: All right. Make it short.

MR. BERKOWITZ: If it please the Court, the record shows there was a detail engaged in shifting cars, as brought out by the previous witness —

MR. MCKAY: The cross examination is limited to the witness on the stand.

MR. BERKOWITZ: May it please the court —

PRESIDENT: Just a minute. The objection is sustained.

MR. BERKOWITZ: Q What work did the commando do?

A As already mentioned, they did earth work, they filled up bomb craters and changed defective rails, and made excavations for rails. And the last four weeks before the evacuation they put

in this railroad siding.

Q Now, in the course of that work, was it necessary to shift the cars from one track to another?

A Not that I know of.

Q And did you ever see any of these cars shifted by the prisoners from one track to another?

A No.

Q Now, about these places of work, were there many cars standing on the track?

A Yes. At this railroad, at this transfer railroad station, yes.

Q And did the prisoners work between the cars?

A Yes.

Q And did Bongarts work between the cars?

A Yes.

Q And could you see what Bongarts was doing while he was working between the cars?

A Yes, I could see that too.

Q Were you always in such a position that you had Bongarts within your line of vision?

A Yes, yes.

Q Every day during those four weeks?

A Yes.

Q Every hour of the day yo were with him?

A Yes, with the exception of these two or three times, as already mentioned, when I went to my family.

Q And when was that?

A As I said before, two or three times during this whole period of time.

Q During what period of time?

A Assuming, 12:00 o'clock noon until 4:00 o'clock in the afternoon.

Q Between what dates?

A During that period of time when the commando work detail Nuernberg was there in the year 1945.

Q And what was the last time you left the detail? The last date?

A That could have been the 8th of April.

Q What was the time prior to that?

A You mean after the commando had ended -- the work detail had ended?

Q No. I mean when was the last time you left the commando to visit your family?

A I can't tell you exactly when that was.

Q Well, was that approximately two weeks before the evacuation?

A No.

Q Well, when was it?

A That was already four weeks before the evacuation.

Q And that was the last time you left Bongarts for any period of time?

A As I said before, for the four weeks before the evacuation took place I was not away from him anymore.

Q Now, when Bongarts would come within the chain of guards, what would you do?

A I stood still. I had a chance to rest myself, and as soon as Bongarts would leave the chain of guards and go from that column to another column I would accompany him.

Q Now, when there were a great many cars in the place where they were working, what would you do while Bongarts was with the chain of guards?

A I stayed in his immediate vicinity then.

23

PRESIDENT: The Court will take a half an hour recess.

(Whereupon at 1500 hours court recessed.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court, let the record show that all members of the court are present, all of the members of the prosecution staff are present with the exception of Mr. Denson and Mr. Pinter who are absent on business of the prosecution, all of the defense staff are present with the exception of Mr. Hall and Dr. Engelhorn who are absent on business of the accused, all of the accused are present with the exception of Olschewski, Oswalt and Lipinski who are sick in the hospital and Dr. Schmitz and Wurst who are conferring with counsel. The interests of those named accused are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses they will please leave.

PRESIDENT: Continuation of cross-examination.

LUDWIG WURSTER, called as a witness by the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

CROSS-EXAMINATION (CONTINUED)

QUESTIONS BY MR. BERKOWITZ:

Q Can you tell me what these two doctors did when they accompanied the work detail?

A The two doctors spent the day cooking coffee. Other than that they didn't do any work.

Q What was the rank of the detail leader?

A A 1st Sgt. of the SS.

Q And who was it that entered negotiations with the railroad officials concerning release of the detail on Sunday; was that the detail leader or was it Bongartz?

A That was Bongartz.

Q How much force did Bongartz use when he administered the slaps that you spoke about?

A It was a very minor force.

Q And he never at any time exceeded the use of mild force?

A I didn't see any.

Q Now you couldn't see because when you arrived at the chain of guards you remained away from him, is that correct?

A If it had happened I would have had to have seen it.

Q How close did you remain to him when you arrived at the chain of guards?

A Five or six meters.

Q Did you all remain on the same side of the cars that he was on?

A Whenever he was I stayed.

Q You said you stayed with the chain of guards?

A The chain of guards is not further away. The chain of guards is not at any great distance away.

Q Well this chain of guards surrounded a hundred men didn't it?

A Yes.

Q How close together did these men work?

A That all depended. They would work spaced at 100 meters, 200 meters or 300 meters.

Q And there would be several cars inside that space would there not?

A Yes.

Q And you remained with the chain of guards outside the group, is that correct?

A Yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Mr. McKay.

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q On your cross-examination you spoke of a transfer station where railroad ties were located. How many columns worked in that station?

A All of the columns with the exception of the column that worked at the main railroad station worked at this transfer railroad station where this work was begun which was begun four weeks before the evacuation started.

Q Was that on the switch that you identified on the diagram which has been marked Defense Exhibit 38 for identification?

A Not at that time. They didn't start working there until four weeks before the evacuation.

Q Were there any railroad cars near the place where the columns were working on this switch during the period of the last four weeks prior to the evacuation?

PRESIDENT: Just a minute, witness, when you are told not to answer, don't you answer. The prosecution indicated that there was an objection to that particular question and the interpreter particularly told you not to answer and the court so indicated to the interpreter. Now, don't let that happen again.

MR. BERKOWITZ: I was going to object on the ground it was repetitious but that's all right.

PRESIDENT: Have the record so indicate that it was apparent that there was going to be an objection on the part of Mr. Berkowitz because he had arisen.

MR. BERKOWITZ: I'll withdraw the objection.

PRESIDENT: All right. Mr. McKay, continue.

QUESTIONS BY MR. McKAY:

Q Now, Mr. Wurster, you have described yourself as being a messenger with Bongartz during the time that you were with him. It is not clear just what you mean by "messenger". Will you please explain that?

MR. BERKOWITZ: Objected to on the ground it's repetitious.

PRESIDENT: The objection of Mr. Berkowitz is overruled and the court desires the matter clarified definitely. Proceed.

A I meant to say that I was a companion, I accompanied him.

Q Well, during the time that you accompanied Mr. Bongartz will you explain what the situation was with regard to your carrying arms?

A Yes, yes I was armed.

Q And what were you armed with?

A I had a rifle.

Q Will you explain what your duty was in the event that Mr. Bongartz would try to escape?

A To hold him back.

Q What do you mean by "hold him back"?

A To prevent him from escaping.

Q Did you ever have to perform that duty during the time that you were with Mr. Bongartz?

A No.

Q During the last four weeks how many of the columns were working around or near railroad cars during that period?

A All of the columns were working four weeks before the evacuation, five or six columns.

QUESTIONS BY DR. WAGNER:

Q Were these doctors who were with the Nuernberg work detail

prisoners, SS people, or civilians?

A They were prisoners.

Q Were these prisoners given work?

A No.

Q Who guarded these doctors?

A They themselves had their own accompanying guards.

Q Where was Bongartz when you visited your family on these two or three occasions?

A I was told that he was sleeping during my absence.

Q Did you take any preventative steps to make sure that Bongartz would not escape during this time?

A No.

Q After you got back did you have any information, did anyone give you any information about what had taken place during your absence?

A Yes.

Q Who gave it to you?

A The leader of the work detail.

Q What did he tell you after you had come back from the two or three occasions?

A He told me that nothing had happened.

DR. WACKER: Thank you.

PRESIDENT: Recross.

RECROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q What does the word "laufer" mean?

A Someone who accompanies.

Q Doesn't it mean somebody who lopes or runs?

A It isn't running, it's merely walking.

Q Does it mean somebody who walks?

A Someone who accompanies the chief capo from column to column wherever he had to go.

Q And who gave you that designation as "laufer"?

A The leader of the work detail did that.

Q And he told you you were to be a "laufer", is that correct?

A Yes.

Q Did you inquire what those duties were?

A I was immediately told what I had to do.

Q And you were told you were to be a "laufer", is that correct?

A Yes.

MR. BERKOWITZ: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Wurster, your duties as far as Bongartz was concerned were those of a guard were they not?

A An accompanying guard.

Q What you were doing was that duty that we might sometimes term a prisoner chaser, is that right?

A Yes. It is well known that a prisoner is allowed to move around by himself.

Q And you were guarding Bongartz, is that not correct?

A I accompanied him.

Q Well, did you accompany him as a "buddy" or were you actually guarding him?

A Not as a buddy". You can't say that.

Q Then you were guarding him, is that right?

A Yes, if the court means that I was guarding him then I was guarding him but as far as I'm concerned I was just accompanying him.

Q The court appreciates that but you were there to prevent Bongartz from escaping, is that correct?

A Yes, if possible, but nothing like that ever occurred.

Q Now you stated to the court that you were from the Wehrmacht and the court would like to know what you were doing in a concentration camp under those circumstances?

A I was acting as an accompanying guard for this one man, Bongartz, in this work detail Nuernberg.

Q You were a member of the Wehrmacht?

A Yes.

Q Were there any other members of the Wehrmacht on duty in Herzbruck?

A I can remember one who was an accompanying guard for the doctors.

PRESIDENT: Any further questions by members of the court? Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q You stated you were a soldier in the Wehrmacht?

A Yes.

Q You also stated that Bongartz was a prisoner?

A Yes.

Q Is it the custom in the army for a prisoner to give orders to a soldier?

A Yes, in this case, sir.

Q That is a prisoner could give orders to a soldier?

A I meant that in this particular instance because I couldn't stop him if he wanted to go from one column to the other.

Q If he told you to take a message to another column would you have to do it?

A No, that is impossible.

Q If he gave you orders to do any work would you be compelled to do it?

A No.

Q When Bongartz went inside the chain of guards did you remain in one place, that is the spot where he left you?

A No. If he went on inside the chain of guards then I would move on step by step so that I always had him in sight.

PRESIDENT: Major Lanham, Law Member.

QUESTIONS BY LAW MEMBER:

Q Did you know a man in the camp by the name of Rosenbaum? Mendel Rosenbaum?

A No.

Q He was a short Polish Jew.

A I don't know him.

Q Did you know another Polish Jew by the name of Abraham Weber?

A No.

Q During the time that you were at the camp of Hersbruck did you ever hear of Bongartz beating anybody to death with a shovel?

A No.

Q Did you ever hear of him throwing cold water on anybody?

A I don't know anything about that.

Q Now you went there on the 22nd of February I understood and stayed until the 8th of April, is that right?

A Yes.

Q And did you tag him all day every day during the time you

were there?

A Yes. Where he went I followed him.

Q If he had beaten up anybody or had thrown cold water on somebody ere you in a position to have seen it?

A I would have had to have seen it.

Q Aside from negotiating at the railroad station what other work did he do?

A He inspected his columns and saw to it that the work was done correctly.

Q What time in the morning did you start off with him and what time in the evening did you release him?

A I know definitely that we left in the morning at six o'clock but I don't know exactly when we got back from work.

Q Why was it necessary to have a special guard for Bongartz? Was it on account of the fact that he was going about from place to place on his own?

A Yes, he was allowed to go alone.

Q And you are positive during the time that you were there that he didn't beat anybody?

A Yes I'm sure about that.

QUESTIONS BY THE PRESIDENT:

Q You have stated that you were in Hersbruck until the 8th of April 1945?

A Yes.

Q What became of you after that particular day?

A I was evacuated then.

Q Did you accompany one of these evacuation columns?

A Yes.

QUESTIONS BY LAW MEMBER:

Q In connection with Bongartz again, Mr. Wurster, how did he treat the prisoners while you were in Herzbruck?

A In the camp?

Q Yes, in the camp or outside the camp when they were working?

A I can't give you any information about what went on inside the camp itself.

Well, outside the camp were you with him all day?

A I can't make any testimony in that regard. I didn't see anything.

Q You said you were him all day long from six o'clock in the morning every day, is that correct?

A Yes.

Q Did he come in contact with the other prisoners during that time?

A You mean the chief capo himself?

Q Yes, I'm talking about Bongartz.

A He told them the work they had to do and what they had to perform.

Q Did he ever mistreat any of them at all during that time?

A No.

PRESIDENT: Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q When you took over this duty of the guards over Bongartz what were your special orders; what were you told to do?

A I was told that I had to accompany Mr. Bongartz, chief capo, when he went from one column to another. Whenever he said I had to go over ther then I had to go with him.

Q Were you told whether you were to keep Bongartz in sight at all times or not?

A They didn't tell me that, no.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. DURCHAN:

Q How far did you accompany that transport?

A Until Dachau.

And you were right with it all the time?

A I didn't pay any attention to anyone.

Q Then you don't know anything about the food for the prisoners on that transport?

A I don't know.

QUESTIONS BY THE PRESIDENT:

Q When did you arrive in Dachau?

A I can't tell you with certainty.

Q Well, give us an approximate date then?

A Twelve to fourteen days. I can't tell you with certainty.

Q And who was in command of that transport?

A No.

Q You don't know?

A Yes, a 1st Sergeant of the SS, M-a-h-r. I'm not sure how it's spelled.

Q Wasn't there an officer in command?

A Not that I know of.

Q How many men were in that transport?

A I don't know that either.

Q About how many then?

A I can't tell you.

(Turster - Court)

Q Were you a guard on that transport?

A Actually, yes.

Q Were you armed?

A Yes.

Q Did you have ammunition?

A Yes.

QUESTIONS BY LAW MEMBER:

Q Did you know a non-commissioned officer by the name of Schwarz in Hersbruck?

A A detail leader?

Q Well, was there a man, an SS man, by the name of Schwarz at Hersbruck?

A Not that I know of.

Q Who was in command at Hersbruck?

A Detail leader Schwarz.

Q What was his name?

A Detail leader Schwarz. He was the commandant of the camp. That's when I meant to say.

Q Where was Schwarz on the evacuation?

A I don't know.

Q Was he with the column on the evacuation?

A I already mentioned I didn't pay attention to anybody.

Q You were on this evacuation weren't you?

A Yes.

Q What were your duties on this evacuation?

A I had to accompany the transport.

Q As what?

A As a guard.

Q From whom did you take your orders on the transport?

A I actually took my orders from the transport leader.

Q And who was he?

A Werr.

Q Is he one of the defendents here in the box?

A No.

Q Are you definitely sure that Schwarz was not on that transport?

A The commandant of the camp?

Q Yes.

A Not that I know of.

Q How many people were on this transport?

A I don't know.

Q As a matter of fact weren't there about 600 people that left on that transport?

A I can't give you any number.

Q You were there weren't you?

A Yes I was there.

Q Do you understand that you are under oath, that you have sworn to testify and tell the truth?

A Yes.

PRESIDENT: Just a minute, witness, when you answer you face the court.

QUESTIONS BY LAW MEMBER (Continuing):

Q You appear to be getting very much on the borderline of not telling the truth here. I'd like for you to approximate the number of people that were on that transport.

A I can't.

Q Were there as many as 1,000 or 2,000?

A As I already said I can't give you any number.

Q If you were locked up in this camp here for awhile do you think it might improve your memory?

A I can't give you any number. It's completely impossible for me to do that.

Q You mean that you refuse to approximate the number?

A No, I do not refuse. I am speaking the truth.

Q Then tell us approximately how many people were on that transport?

A I can't estimate that, with all my best heart I can't do it.

PRESIDENT: Now the court directs that you give the court some idea as to the number of men on this transport to the best of your ability, whether it is 5 men, 20 men, 100 men, 500 or whatever you think. You've certainly got some idea and that's what the court wants. The court does not necessarily expect you to give a definite number for certain but you certainly have some idea as to the number of men on the transport.

THE WITNESS: There are several hundred, that is clear but I can't —

QUESTIONS BY THE PRESIDENT:

Q You mean by several hundred, 200, 300?

A I'm telling the truth. I cannot say it with certainty. I just can't.

Q The court does not expect you to say with certainty but you have some idea and that is what the court wants. By several hundred do you mean 200 or 300?

A Good, okay, five or six hundred.

Q In other words your estimate is about five or six hundred, is that right?

A Yes.

Q Did you see Schwarz at any time during the course of that evacuation march?

A Not that I know of.

Q Now the court wants a definite answer in regard to that. Did you see him or did you not see him?

A I didn't see him. I already mentioned I didn't pay attention to anything.

Q Do you mean to say that you were a guard on that march and you didn't pay attention to anything?

A Because I was searching for my own troop.

Q What do you mean by that?

A I was supposed to get back to my unit and I wanted to get back to it also.

Q But you were marching right with this column and serving as a guard during that time were you not?

A Yes.

Q And you were under arms and had ammunition, is that correct?

A Yes.

Q Are there any men in the dock who were present right in your column?

A Yes.

Q Look them over, stand up, come down here and look the men in the dock over. Take your time. Now just who have you pointed to?

A Bongartz.

PRESIDENT: Let the record indicate that the witness has identified Bongartz, No. 5.

A I can't recognize anyone else.

Q Just take your time.

A I can't recognize anybody else.

QUESTIONS BY LAW MEMBER:

Q Now you marched with this detail all the way to Dachau didn't you?

A Yes.

Q What was the name of this man named Marr that you spoke of that you seemed to think was in command of the detail? What was his first name?

A I don't know his first name.

Q Did you know Schwarz, the detail leader in Hersbruck?

A Yes.

Q How often did you see him?

A I saw him often in Hersbruck.

Q When you left with this column that you marched with to Dachau which part of the column did you march in?

A A second group.

Q How many groups was the column made up of?

A Three or four groups.

Q How many were in each group?

A I assumed there were five to six hundred people in the group where I was.

Q There were five or six hundred people in the group that you were in and then you are telling the court now that there were three or four groups?

A I assumed that. I was assigned to group 2.

How many people were in Hersbruck, how many inmates?

A I can't give you any information about that.

Q You were there for a period of two months were you not?

A Yes.

Q On the march you estimated that there were ap roximately 600 people?

A Yes.

Q And now you tell the court there was probably four or five or six hundred people in one of three or four columns on this march?

A I estimated the number of people in the group to which I was assigned.

Q Now I understand from you there were a total of five or six hundred people in the whole column, is that correct?

A The people were marched off group by group and what occurred in the groups which left after I had left I can't tell. I didn't see it.

Q Read the question.

(The question was read by the reporter.)

Q — in the whole column that left Hersbruck?

A In that column to which I was assigned.

Q Do I understand then that there were approximately 1,500 people in Hersbruck?

A I can't tell you anything about that. I don't know that. I don't know how many people were in Hersbruck.

Q And you don't know who was in command of the group at all from the time it left Hersbruck until it got to Dachau?

A A certain Mr. Marr was in charge of this group to which I was assigned.

Q What was his rank?

A 1st Sergeant of the SS.

Q What was the rank of Schwarz ?

A Captain, we call it captain in the army.

Q Have you seen Marr since that evacuation?

A No.

Q Was there any officer on this evacuation?

A No.

Q What happened to Schwarz when the evacuation took place?

A What Mr. Schwarz are we talking about here?

Q The camp commandant.

A I don't know.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BURGHAM:

Q What orders were you given at the beginning of that transportation march?

A We were told that we had to go along as accompanying guards.

Q What duties were prescribed?

A To make sure that nobody escaped.

Q Did you see any dead bodies along the route?

A No.

Q Did you see any shooting?

A I didn't see that either.

Q Did you hear any?

A No not either.

QUESTIONS BY COLONEL JACKSON:

Q How many men by the name of Schwarz were at Hersbruck?

A I don't know anybody with the name Schwarz except the commandant of the camp.

Q Why do you always ask, "Do you mean the camp leader?"

A I only know the one as I said and he was the commandant of the camp.

Q Then there should be no question when the name Schwarz is mentioned as to who is being talked about should there?

A Yes.

QUESTIONS BY THE PRESIDENT:

Q Did you have any occasion to use your weapon during the course of that evacuation march?

A No.

Q Are you sure about that?

A Yes.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY LT. COL. SKIELVIG:

Q How many days were you enroute to Dachau from Hersbruck?

A I estimate 12 to 14 days.

Q Which route did you take?

A We went from Hersbruck in the direction of Regensburg and then in the direction of Munich.

Q First you said you received orders not to allow any prisoners to escape. Supposing someone fell out of the column through sickness, something of that sort, did you have any orders concerning them?

A No.

Q What would you have done with them if they had fallen out sick?

A Then a man would have had to remain behind.

Q Did you have anything like that happen on the evacuation march?

A Yes, there certainly were people who stayed behind.

Q What did you do, just leave them lying along the road, or what?

A They rested up and then they slowly caught up again.

QUESTIONS BY THE PRESIDENT:

Q How long did you remain at Dachau after arrival here?

A I remained one day.

Q Where did you go then?

A Then I went on my own and looked for my troop.

Q You mean you arrived at Dachau, stayed here one day and then you left of your own accord, is that the idea?

A Yes.

Q What became of Bungarts in the mean time, weren't you supposed to guard him?

A After we had arrived in Dachau the people remained here.

Q Where did you go from Dachau?

A After I left Dachau I went on my own and looked for my troop and ended up in captivity.

Q Where were you captured?

A Near Holzkirchen.

Q When was that?

A 29-30 of April.

Q How long did you remain in captivity?

A Until the 29th of July 1945.

Q Were you ever interrogated by the American authorities?

A Yes.

Q When was that?

A When I was taken captive.

Q When were you finally released?

A On the 29th of July 1945.

QUESTION BY COLONEL JACKSON:

Q Did you see any prisoners mistreated on that evacuation march?

A No.

QUESTIONS BY THE PRESIDENT:

Q And you never saw a single body during the course of that evacuation march?

A No.

Q You never saw a single person shot?

A No.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

DEFENSE COUNSEL: No.

PRESIDENT: Recross?

RECROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q When you were examined by the American authorities did you tell them that you had done concentration camp duty?

A No. May I add something here?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Were you asked by the American authorities whether or not you had ever done any duty in a concentration camp?

A No.

Q Are you willing to make an explanation to the court?

A Yes.

Q Go ahead, make it concise.

A After I had been captured and arrived in this camp people were sifted out, they were looking for people who had been in the army and the SS who had these blood group marks.

Q Yes, anything further?

A And in that respect I was examined six or seven or eight times.

Q Are you sure you were in the Wehrmacht and not the SS?

A I was with the Wehrmacht.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. OKAY:

Q You stated that you saw Mr. Bongartz on the evacuation. Did you see him all during the course of the evacuation?

A Yes.

Q What did you observe him doing on the evacuation?

A He was taking care of those people on the march who could not keep up the march. The people would rest the selves for awhile and then they would slowly try to catch up. They'd come after the column.

Q What was the nationality of the people that made up your group in the march column?

A Those again were people of various nationalities, Frenchmen, Russians —

Q What prisoners did you observe Mr. Bongartz helping on the evacuation?

A He helped individuals once. There was one Pole there who couldn't keep up the march and Bongartz asked one Pole to support this other Pole.

Q Did you see Bongartz doing anything else on the evacuation transport?

A No.

MR. McKAY: No further questions.

PRESIDENT: Recross.

RECROSS-EXAMINATION

QUESTIONS BY MR. BARKOWITZ:

Q How many Laggers did Bongartz take care of?

A That is a number which I find difficult in giving here.

Q Will you approximate it?

A Well, roughly it would be 1, 2, 3 or 4 or 5 people and then again it might have been 5, it constantly varied.

Q How many laggers did you observe during the whole transport?

A Eight to ten.

Q And you observed Bongartz all through the transport?

A Observed? This is the right word here, I saw him.

Q You stated awhile ago that you didn't observe anybody. Now was Bongartz the only one that you observed?

A He was the only one I saw because I knew him.

Q You didn't see anybody else?

A Other than he I didn't know anyone else.

Q You had been in Hersbruck for two months?

A Yes.

Now when you were interrogated by the American authorities were you asked concerning your military service?.

A I didn't understand you there exactly.

(The question was repeated by the interpreter.)

A No.

Q Were you required to fill out any questionnaire?

A Yes.

Q Weren't you asked in that questionnaire what the nature of your military service had been?

A I was asked whether I was a member of the Wehrmacht, the air force, or the SS.

Q Were you asked to tell where you had served?

A With the Wehrmacht.

Q Weren't you told to describe the various stations at which you had served?

A No.

Q Weren't you asked to tell the battalion or company or regiment that you had served with?

A Wehrmacht infantry.

Q Weren't you told to mention the towns at which you had been stationed?

A No.

Q Are you sure of that?

A Yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Court will be closed.

(Thereupon the court was closed at 1655 hours.)

***

(Thereupon the court was opened at 1700 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: If it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Pinter who are absent on business of the prosecution, all of the personnel of the defense are present, all of the accused are present with the exception of Olschewski, Oswalt, Lipinski who are sick. The interests of those named accused are being taken care of by counsel. The witness

is reminded that he is till under oath. If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: The court understands the defense have finished with this particular witness?

MR. McKAY: Yes, sir.

PRESIDENT: The witness will be excused.

(The witness was excused and withdrew.)

PRESIDENT: Court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court adjourned at 1705 hours.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8
First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

Pages 6293 - 6373 incl.

Case No. FLOSSENBURG

*~~Summary~~
*~~Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 7 November 194 6

Prosecutor

Defence Counsel

Interpreter

Reporter

Members of Court:
WITNESSES:
LORENZ GAAB
MICHEL MICHAEL
WALTER OELZE
FRANK LOERKENS
MAX GUTMANN
~~FRANK HEISER~~

Accused FRIEDRICH BUCHER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

7 November 1946 0900 - 1700 hours. Pages 6293 - 6373 incl

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
LORENZ GAAB	6293	6297			6297
MICHEL MICHALL	6299	6305	6312		6308
WALTER OELZE	6313	6328			6329
FRANZ LORENZENS	6332	6338	6344 6349 6351		6345 6350
MAX GUTMANN	6352	6360	6367		6369
FRANK HAISER	6370				

EXHIBITS

NONE.

Ta 583
11/7/46
DMS (gf)-1
Flose

Camp Dachau, Germany

7 November 1946

MORNING SESSION

(Whereupon the Court reconvened at 0900 hours.)

PRESIDENT: The Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the Court are present; all the personnel of the Prosecution are present, with the exception of Mr. Pinter, who is absent on business of the Prosecution; all the personnel of the Defense are present; all the accused are present, with the exception of Olschawski, Oswalt, Lipinski, Gieselman, and Eisbusch, who are sick, Berger, Becker, and Schatz, who are conferring with their counsel. Let the record further show that the interests of those named accused who are absent are being taken care of by their respective counsel.

If there are any spectators in the courtroom who expect to be called as a witness in this case, they will please leave the courtroom.

PRESIDENT: Defense.

MR. MCKAY: The next witness called on behalf of the accused No. 5, Mr. Oaab.

LORENZ OAAB, called as a witness by the defense, having been duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Will you state your name to the court?

Ta 583
11/7/46
DMC (gf)-2
Floss

A Lorenz Gaab.

Q Mr. Gaab, when you speak, speak loud enough so that you can be heard in the entire courtroom and face the court. How do you spell your last name?

A G-a-a-b.

Q Mr. Gaab, where do you live?

A In Nürnberg.

Q What is your business?

A A railroader.

Q Where were you employed between the months of February 1945 and April 1945?

A By the German railroads.

Q And where were you working?

A In the warehouse.

Q In what place?

A In the Nürnberg transfer railroad station, Division 2.

Q And what were your particular duties at that time?

A I had to give out material to our various people.

Q And where did you perform your duties?

A In the warehouse.

Q Where was this warehouse located?

A In Nürnberg.

Q Well, where was the warehouse located on the railroad?

A Directly at the transfer railroad station.

Q During the time that you were employed there, during the period from February until April, 1945, did you ever see any prisoners working there?

A Yes.

Q Did you ever come in contact with a man named Dongarts?

Tr 583
12/7/46
WRC(gf)-3
Floss

A I did not actually come in contact with him, but I saw him every day—every morning when the prisoners came to work and in the evening when they were transported away.

Q Where were the prisoners brought in the morning and returned at night?

A The prisoners were split up into working groups, into columns, and brought over to these places of work.

Q Now where did you see the prisoners in relation to the warehouse where you were working?

A Directly at the warehouse.

Q Did you ever see any prisoners near this warehouse during the course of the day after other prisoners had left?

A Yes.

Q And what did you see there?

A As already said, I saw them march up and saw them distributed to the various places of work.

Q Now I am referring to those prisoners that you stated you saw durin g the various periods of the day. What did you see them doing?

A I only saw them in the forenoon, in the morning when they marched up, and in the evening when they marched away.

Q Now when the prisoners came in in the evening, will you describe to the court just what you saw with regard to sick or injured prisoners?

A Once I saw a prisoner who had a bandage on his finger. He must have injured his finger.

Q Did you see any other injured prisoners?

A No.

Q Will you explain to the court just what the situation

Tr 583
11/7/46
DMC(gf)-4
Floss

was with regard to that detail working on Sundays?

A With regard to working on Sundays, I can only say that I was working inside the warehouse all the time. I saw the prisoners very little. I was giving out tools to the workers.

Q Will you explain just what the reason was that you watched the prisoners when they came in the morning and again at night?

A I had to pay attention to see that none of my tools were taken away.

Q Did you ever have any occasion to observe the prisoners when food was distributed?

A Yes.

Q Will you explain what you saw to the court?

A I saw the guards come with the people and pick up the food.

Q Where would they pick it up?

A In the prisoners' room.

Q There was that.

A Near my warehouse.

Q Will you describe what if anything Bongarts did at that food distribution?

A I don't know. I don't know what Bongarts did.

Q Well, was there any other building near the supply room which was used by the prisoners other than the shack which you just spoke of?

A No.

Q Do you think you could recognize Mr. Bongarts if you saw him again?

A Yes.

Tm 583
11/7/46
DEC(gf)-5
Flees

Q Will you look over the prisoners seated in the dock behind me and see if you can recognize the man you knew of as Mr. Bongarts?

A (Indicating) The last one.

Q In what row?

A The second row from the bottom—the last one.

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 5 as Bongarts.

You may cross examine.

PRESIDENT: Any further questions?

PROSECUTION: No questions.

PRESIDENT: Just a minute. Dr. Wacker.

CROSS EXAMINATION

QUESTIONS BY DR. WACKER:

Q Did any unusual incident ever take place on the railroad station?

A Not that I knew of.

Q If a person would be beaten to death in the railroad station in Nuremberg, would that become general knowledge?

PROSECUTION: I object to that question on the grounds that it is leading and suggestive—an improper question.

PRESIDENT: Objection sustained.

DR. WACKER: No more questions.

PRESIDENT: Any further cross examination?

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You said that you saw one man with an injured finger.

Ta 583
11/7/46
DMC(gF)-6
Floss

Was that the only injured man that you saw among the prisoners at the railroad station?

A Yes.

Q Now that was during all the time that those prisoners were working at the railroad station when you were there?

A Yes, the whole time.

Q Well just how did Bongarts treat the various prisoners during the time that he was under your observation at the railroad station?

A I never saw Bongartz beat a prisoner or harm a prisoner in any other way.

Q Did you ever hear of Bongarts beating up a prisoner at the railroad station?

A No.

Q Well, did you ever hear any reports that Bongarts had beaten a prisoner at any other place than the railroad station?

A No.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q How far was your transfer warehouse, or the warehouse where you worked, from the main railroad station?

A How far away from the main railroad station?

Q Yes.

A One hour from the main railroad station to the transfer railroad station.

Q How many kilometers?

A Approximately five kilometers.

(Cmb-Court)

Ta 583
11/7/46
DMC(gf) -7
Flees

Q Would injured men pass through this transfer railroad station?

A Not that I know of.

PRESIDENT: Any further questions, members of the court?

QUESTIONS BY LT.COL. SKIFLVIG:

Q How many minutes or hours during the day did you actually see the prisoners?

A Only on two occasions, and on those occasions about five to six minutes.

PRESIDENT: Any further questions, members of the court? Apparently not. Redirect?

MR. MCKAY: Nothing further.

PRESIDENT: Recross?

PROSECUTION: No further questions, sir.

PRESIDENT: The court understands the defense is finished with this witness?

MR. MCKAY: That is correct.

(Whereupon the witness was excused and withdrew.)

MR. MCKAY: The next witness called on behalf of the accused No. 5 is Mr. Michael.

MICHEL MICHAEL, called as a witness by the defense, having been duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Will you state your name for the court?

A Michal Michael.

Q Will you spell your last name?

A M-i-c-h-a-e-l.

Ta 583
DMC(gf)-8
11/7/46
Pless

Q Where do you live at the present time?

A In Nürnberg, Zinger Strasse 18.

DR. WACKER: Your first name is Michel and the family name is Michael?

WITNESS MICHAEL: Yes, sir.

Q Where are you employed, Mr. Michael?

A The national railroads.

Q And at what place are you now employed?

A At the transfer railroad station in Nurnberg. At the second rail division.

Q Where were you employed, Mr. Michael, between the months of February 1945 and April 1945?

A As group leader with the railroad at the transfer railroad station in Nürnberg.

Q What was your status—civilian, prisoner, or soldier?

A I was a civilian.

Q What were your particular duties at that time as group leader?

A I had the supervision over the workers.

Q And just what did you do in line of supervising the workers?

A I had to construct railings, mainly constructing railings.

Q During the time between February 1945 and April 1945, was there any detail of prisoners working in Nurnberg which came from Herzbruck?

A Yes.

Q Do you know how many men made up that detail from Herzbruck?

A 700, 800, 600—it varied.

Q Did you come in contact with a prisoner from Herzbruck by the name of Longarts?

Tr 583
11/7/46
DMC(gf)-9
Flemm

A Yes.

Q What was Bongartz' duty with regard to this detail?

A He was chief capo.

Q What do you mean by chief capo?

A He had the various capos under him.

Q How many capos were under him?

A It all depended on how the groups were split up--6, 7, 5--as much as were needed.

Q Do you recall where the detail of prisoners were working who came from Hersbruck during the period of time of the last four weeks prior to the ceasing of work in Nurnberg?

A Yes. They worked at the transfer railroad station, at the first part of it.

Q And what was the particular type of construction work that was being done at that time?

A They were making an auxiliary rail switch there such as you make when bridges are put out.

Q Can you give the court any idea of just what the distance was between this switch and the transfer switch itself?

A About 1000 meters from the railroad station itself.

Q Will you describe to the court just what the situation was with regard to railroad cars being on the track in this area where the switch was being constructed?

A There weren't any actually there where the prisoners were actually working, but over at the place where they ate their lunch there were nine cars standing.

Q Will you speak louder, Mr. Michael, so that everyone can hear you. Now, where were these nine railroad cars located where the prisoners ate their lunch?

Ta 583
11/7/46
DHC(gf)-10
Flous

A In the front railroad station.

Q When you say front railroad station, do you mean transfer railroad station?

A Inside the transfer railroad station we called it the front railroad station because that was the front part of the transfer railroad station. There was a part of the station where trains came in and trains went out, and went to the north and to the south and all directions.

Q Now were you actually performing your duties of supervision with regard to the detail from Mersbruck when they were working on this switch?

A Not personally. I just had the supervision. There were two other group leaders there.

Q During the time that you were working there between February and April of 1945, did you have an opportunity to see how Mr. Bongarts treated prisoners who worked under him?

A Yes, I saw that.

Q And what did you see?

A I saw him hit.

Q Now just what did you see when you did see him hit prisoners?

A (Indicating) He would slap at a man or a prisoner with his hand. The prisoner would usually duck away from it, and then he would go on. That is all I saw.

Q Did you ever see any other kind of beatings other than this slap that you have just described?

A No.

Q Just what was the nature of the actual work the

Tm 583
11/7/46
DBD(gf)-11
Vloss

prisoners were doing on the switch?

A It was earthwork. They had to make the road bed parallel to the rails which were going to be set in and level it off so that the rails would be parallel to the earth where they were put up.

Q How far along was that switch in construction when the work ceased?

A They were out there during the last time. Originally they were only there for three or four weeks. They didn't continue work on it because they didn't have the necessary materials.

Q When did the work cease?

A It must have been the 7th or 8th of April.

Q What year?

A 1945.

Q Will you describe to the court just what the situation was with regard to this detail from Hasbruck working on Sundays?

A They worked almost every Sunday as far as I know except for two or three times. Bongarts came up to me and told me that he would like to get a free Sunday for his people once in a while. He said that they had to wash--do their washing of their clothes.

Q What did you do with Bongarts' request?

A I gave it to the chief and the chief passed it on again to the railroad authorities--the head people.

Q Do you know whether any results came about from that request?

A I couldn't tell you about that.

Q Do you think you could recognize Bongarts if you saw him again.

A Yes.

(Michael-Direct)

Q Will you look over the prisoners seated in the dock behind me and see if you can recognize the man you knew of as Dongarts?

A (Indicating) The second row at the end.

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 5 as Dongarts.

Q What were the nationalities of the prisoners who came from Dersbruck to work at Nurnberg?

A That was international.

Q What do you mean by international?

A Poles, Frenchmen, Italians.

Q Did you come into contact with a prisoner named Mendel Rosenbaum on that work detail?

A No.

CUESTIONS BY DR. WACKER:

Q Do you know an Abraham Weber?

A No.

Q What do you have to say about that that these two witnesses, Abraham Weber and Mendel Rosenbaum, appeared here on the witness stand and said a man had been beaten to death there in the railroad station at Nurnberg?

A That couldn't be right because if that had happened, everyone would have known about it.

Q Do you know a man named Wurster?

A Yes.

Q What duties did Wurster have?

A He always had to accompany capo Dongarts.

Q How often was Wurster there?

A He was always there whenever Dongarts came.

MR. MCKAY: You may cross examine.

Ta 583
11/7/46
DBC(gf)-13
Floss

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q You say Wurster accompanied Bongarts. From where did he accompany Bongarts to where?

A He would go from each group of workers to the other.

Q How many groups did they have?

A It all depended, 7—8—6—5—8.

Q And they were scattered over what territory?

A Wherever there were bomb craters.

Q And there were bomb craters at the main railroad station and bomb craters at the transfer railroad station, were there not?

A They were mainly at the transfer railroad station.

Q Well, they were also up at the main railroad station too, were they not?

A No. The people were mainly working at the transfer railroad station. They were supposed to do their work there. There was one group at the main railroad station but we didn't have anything to do with them, and Bongarts would always visit them.

Q Bongarts always visited that group at the main railroad station, did he not?

A Yes. With this guard Wurster.

Q And you do not know what took place at the main railroad station, do you?

A I can't know that, no.

Q And you did not know the name of every prisoner that worked at the detail down in the transfer railroad station either, did you?

Ta 583
11/7/46
DMC(gf)-14
Floss

A No.

Q So it is not anything unusual that you did not know Mendel Rosenbaum, is it?

A I can't know him.

Q Of course not. And you know absolutely nothing about what took place up at the main railroad station, is that correct?

A No. That wasn't my place of work. I never went up there. I would have had to walk for an hour at least to get there.

Q Now you say Bongarts would hit the prisoners. How frequently did he hit them?

A I only saw it occur twice. I saw him hit the prisoner with his glove. I couldn't always be there because I had to see to it that the workers were doin g their work correctly.

Q So you were not always around, is that correct?

A No, because I had to go from one group of workers to the other.

Q So you did not have a good opportunity to see how Bongarts treated the prisoners, did you?

A Yes, that is right. They would set up these group of workers at the places of work. Then they would put the chain of guards around them, and by the time I would get to one group of workers the first hour, Bongarts would be somewhere else. He'd be here or there. I would give Bongarts the work first of all. That was in the morning and in the afternoon.

Ta 583
11/7/46
DMr(gf)-15
Floss

Q Now the prisoners were afraid of Bongartz, were they not?

A I can't really give you an accurate piece of information about that. I think so, but—

Q Well, upon what do you base your answer that you think so?

A I don't really have any basis for it. I don't know.

Q Well, what makes you think so?

A I don't know how I am supposed to express myself.

Q Express yourself in the way you think proper.

A It was usually the case that workers were afraid of their capo because they always had to work. I personally couldn't say anything to these people. I wasn't allowed to say anything to them. Bongartz was there for that purpose.

Q In other words, you gave Bongartz orders, and Bongartz would see that the prisoners carried them out. Is that right?

A Yes. And if something was done incorrectly, I would have to tell Bongartz about it because I couldn't make myself understood with these people.

Q And if something were done incorrectly, Bongartz would go down there and punish the prisoners, is that right?

A As far as I could observe him, no. He didn't do that.

Q Bongartz carried a stick around with him, didn't he?

A Yes

Ta 583
11/7/46
DWC(gf)-16
Flose

Q How was this chain of guards that you have mentioned placed around the entire body of prisoners or was it placed around each group of prisoners?

A The chain of guards would be around the whole body of prisoners with the exception of certain groups who would have to go too far away from the main body of prisoners, and when one group would go away, they would send four or five guards with them.

Q Roughly, Mr. Michael, what was the diameter of this chain of guards in meters?

A I can't estimate them exactly. I estimate five to six hundred meters when they were spread out from each other.

Q That is around the entire body of prisoners?

A Yes, that is a circle round about.

PROSECUTION: No further questions, sir.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Now, Mr. Michael, during the course of your entire life, did you ever see a fight between two Germans?

A No.

Q Never did?

A Yes, I saw people fight when they were drunk, if that is what you mean.

Q Did they slap each other with the hand or did they double up their fists and hit each other?

A They boxed.

Q In other words, they doubled up their fists?

A Yes, they used their fists.

Tm 583
11/7/46
DMC(gf)-17
Floss

Q Is that just what Longarts did? Did he double up his fist or did he slap?

A I couldn't really tell you exactly about that. I didn't pay that much attention.

Q Now wait a minute. You told us a short time ago he slapped with his hand. That the court wants to know is whether he doubled up his hand and hit with his fist.

A I didn't say that he hit with his open hand. I said that he hit with his hands. I can't say that he ever used a stick to hit anyone. I only saw him use his hand.

Q The court does not want to know whether he used a stick. The court wants to know whether he hit with his open hand or whether he used his fist doubled up (Indicating) like that?

A I can't tell you.

Q You don't know then?

A I have taken an oath. I can't tell you for sure. I didn't pay that much attention to tell whether he hit with his open hand or with his fist.

Q Now when you testified a moment ago you testified that he hit with his hand and indicated with the open hand. The court wants to know exactly.

A When I was demonstrating that, I was not paying any attention as to whether I was using my open hand or not. I saw him hit somebody but I cannot make any decision whether or not he used his open hand or fist. If I would know it, I would tell you. I can't lie.

Ta 583
11/7/46
DHC(gf)-18
Floss

Q The court wants you to tell the exact truth and nothing but the truth. Then you are not certain whether the hand was open or whether it was closed?

A No, I couldn't swear to that.

Q Did he make a sweeping motion like that (indicating) or a more direct motion like that (indicating)?

A No, he hauled back and made a sweeping motion just like you hit someone.

Q You mentioned that Furster always accompanied [illegible], and Bongarts?

A Yes.

Q When that took place was Furster armed?

A Yes, he had a rifle.

Q Well, he was a guard then over Bongarts, was not that the idea?

A Yes, as an accompanying guard.

Q What do you mean by accompanying guard? He was guarding him, wasn't he?

A He guarded him and he always had to follow Bongarts wherever Bongartz went.

PRESIDENT: The Court will take a one-half hour recess.

(Whereupon the court recessed at 1000 hours.)

Ta 584 11-7-46
pls/1
Flossenburg

Camp Dachau, Germany
7 November 1946

MORNING SESSION

(Thereupon the court reconvened at 1030 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent onbusiness of the prosecution, all the personnel of the defense are present with the exception of Dr. Engelhorn and Mr. McKay who are absent on business of the accused, and all of the accused are present with the exception of Lipinski, Oswalt, Olschewski and Hussfeldt who are ill and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath and if there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect? Dr. Wacker?

DR. WACKER: Nothing further.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Questions by the court. Colonel Jackson.

MICHEL MICHAEL, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL JACKSON:

Q You have stated that the prisoners had some fear of Bontartz, is that correct?

A As I already explained, I can't really find an expression for that. As a rule, all of the workers were afraid of their capos.

Q Well, was this fear of Bongartz by the prisoners greater or less than it would be for the average man to have for his foreman or boss?

A I believe that that's the way it was, that they had more fear of him than the ordinary worker had of his capo.

Q When Bongartz struck one of these prisoners with his hands, what was the effect on the prisoner?

A Usually the prisoners would duck like this (indicating) when they were hit. Perhaps they ducked because they were used to ducking.

Q Did the blows strike them?

A Yes, he struck some of them, he actually reached some of them. I saw that two or three times.

PRESIDENT: Let the record indicate that the witness ducked like this. (Indicating)

Q Did any of those blows knock a prisoner to the ground?

A No, they usually would lie down themselves on their own accord. I can't say that any prisoner was actually knocked down by the blow itself. They would lie down on the ground themselves in order to escape the blow.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect? Mr. McKay

REDIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Did you ever visit the main railroad station?

A No, that wasn't my place of work.

Q Do you know what kind of trains were handled in the main station?

(Michael-redirect)

A Everything went through there, passenger trains, freight trains. As I already said, it was the main railroad station.

Do you know whether any of the freight trains stayed in the main station?

A I can't say.

PRESIDENT: Any further redirect? Recross?

PROSECUTION: No further questions.

PRESIDENT: Does the court understand the defense is finished with this particular witness?

MR. MCKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. MCKAY: The next witness, called on behalf of the accused, No. 5, is Walter Oelze.

WALTER OELZE, called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q State your name for the court.

A Oelze.

Q Your first name?

A Walter.

Q Where do you live?

A Nurnberg, where the trains go out, Building 14.

Q What is your present occupation?

A An official with the National Railway.

(Oelze-direct)

Q What was your occupation between February 1945 and April 1945?

A I was an official with the National Railway and I was the person in charge of the rail section No. 2

Q Where did you work?

A At the transfer railway station.

Q What city?

A In Nürnberg, and then I also worked at the South railroad station and Maersfeld.

Q Mr. Oelze, during the period of time beginning February 1945, until April of 1945, did you have any prisoners working under you in the railroad yards in Nürnberg?

A Yes.

Q Will you just briefly describe the prisoner setup that you had working for you at that time?

A I didn't have much to do with the prisoners themselves. The only contact I had was with the chief capo, Bongartz, whom I had to give the work orders.

Q Mr. Oelze, was there a detail of prisoners that came to work in the railroad yards in Nurnberg from the camp of Herzbruck?

A Yes.

Q Were there any details of prisoners that came to work in Nürnberg, other than from Hersbruck?

A Yes. There were only three days when other prisoner work details worked there. They worked in construction work.

Q What is that book that you are now looking at?

A That is my personal notebook which I kept at that time.

Q Did you keep that notebook during the period of February to April of 1945?

(Oelze-direct)

A Yes.

Q What entries did you make in that book?

A Only the personnel strength of the prisoners which I received.

Q Can you tell the court just when the detail of prisoners came from Hersbruck to work in the Nurnberg railroad yard?

A On the 24th of February.

Q What year?

A Until the 7th of April 1945. Both dates in 1945.

Q Can you give the court an idea of the number of prisoners that would come each day from Hersbruck to Nurnberg to work?

A February 24th it was 808, and on March 7th, 764; on the 23rd of March, 408; and on March 28th, 434; on April 3rd, 633; and 624 on the 7th of April, the last day.

Q Will you explain to the court just what your duties were with regard to assigning these prisoners who came in from Hersbruck to work?

A I myself wasn't out there all the time because I had to work in the office. In the morning I would get a report of the personnel strength and then I would have my group leader put the people to work along the rails.

Q Were you present in the morning when the detail arrived?

A Not always.

Q Do you know whether all of these prisoners worked in one group or whether there were several groups of them?

A They were divided up into various groups and they called them groups of 100 men apiece. We couldn't put all

the people to work at the same place, we had to divide the people up according to where the work had to be done.

Q On the 24th of February 1945, where were the prisoners assigned to work in the railroad yards under your supervision, who had come from Herzbruck?

A I presumably got a work order on the 23rd.

Q How do you know you got a work order on the 23rd?

A Because I made a note about that here before the 24th - "800 prisoners are coming from Maersfeld at 8:00 o'clock, receive them, take them into receipt." I'll have to add to that that every evening we had a camp meeting, a discussion about how the work was running on, and on this particular evening I got the order that those particular prisoners were coming on the 24th.

Q What was the significance of these 800 prisoners coming from the town of Maersfeld?

A The train couldn't go that far to Maersfeld because the stretch between the transfer station and Maersfeld was broken.

Q Where was this Maersfeld located in regard to the camp of Herzbruck, if you know?

A If I'm not mistaken they first have to go to Dutzentteich and from there they had to go to Herzbruck, but that's only an assumption on my part, I don't know that for sure.

Q Where were these 800 prisoners put to work?

A A messenger of mine received these 800 prisoners and came to my camp, and they were put to work in the south section of the transfer railroad station.

(Pelz-direct)

Q You spoke of a man by the name of Bongartz. What was Mr. Bongartz' position with relation to the 800 prisoners who came from Hersbruck?

A Bongartz, he was the chief capo. I would give him the work.

Q Will you explain to the court what you mean when you say you "would give him the work?"

A The 800 men had to be split up into smaller groups. They couldn't all work at the same spot. For instance, in one part, the southern section of the transfer railroad station at Bridge 5, rails 1 to 11, and then in addition at this transfer railroad station were tracks 1 to 24, and then on the northern section of the railroad station were tracks 25 to 75, and that was only one part of the railroad station. There was a larger section and this workshop for repair of the National Railroad, including the Southern Railroad Station - that is looking at it diagonally.

Q What kind of work was being done by these 800 prisoners who came to Nurnberg railroad yards from Hersbruck?

A First of all, they had to fill up bomb craters and then they reinforced bridges and then they made a railroad embankment, put the dirt against it where an emergency curve had to be made.

Q Will you explain to the court what, if anything, this detail of 800 men from Hersbruck had to do with movement of men from railroad cars?

A Nothing. It is possible that certain sections of the track would have been hit by bombs two or three times and damaged and then the railroad cars would be lifted up from

~~[illegible]~~ this railroad track by crane and then it is possible that after a new piece of track had been laid in there, that certain railroad cars would be shoved-off at a distance of 10 to 15 meters, but nothing more than that.

Q Would you explain to the court what personnel would be used to do this work of changing the cars from one track to another?

A The people who did that would be the individual groups of 100 men who would happen to be working there filling up the bomb craters and sometimes these railroad cars would stand in the way. In order to reach another bomb crater they would have to move another railroad car but you can't really talk about them actually shifting the cars around from one rail to another.

Q Mr. Delze, do you recall just what type of work was being done by these prisoners from Hersbruck during the last four weeks, prior to the time that they ceased to work at Nurnberg?

A The last four weeks? For about three and a half weeks we worked on this rail detour and before that we worked on the bridge. We reinforced some bridges, and we also worked in the southern and northern parts of the railroad station.

Q Were was this transfer switch being constructed in relation to the transfer station itself?

A The railroad station itself is divided up the following way - the front of the railroad station, the part of the station where the trains come in, and the transfer station itself where the trains leave, and where the trains go out. We didn't work there where the trains went out.

The curve was built onto track 8 in the direction of Maorzfeld. [illegible]

Q Where was that with relation to the station or part of the station? [illegible]

A That was part of the railroad station. The front railroad station was used for storing munitions which was there before the air attacks, and the front railroad station consists of an end rail and eight rails going out from it. [illegible] about 800 or 900 meters long. [illegible]

Q How far was it from the switch where these prisoners worked to the station itself?

A That varied. The stretch itself was about 800 to 850 or 900 meters long. At first the people worked very close to the rails and then later on at some distance.

Q On this particular spot where this switch was being constructed were there any railroad cars?

A There wasn't any rails at all where the people were working at this switch, this railroad siding was only earth work. [illegible]

Q Will you explain to the court what the situation was with regard to guards around these prisoners while they would work on this switch? [illegible]

A The train was put into track 8, the train with which the people travelled from Hersbruck to Nuernberg, in track 8 of the front railroad station, and from there the people got out on the opposite side where their work was, and there they were accompanied by the capo or guards who were leading them to their work.

Q Will you explain the situation that existed when the people were at work with regard to the guards who were with the prisoners during the time that they worked?

(Helze-direct)

A The people were completely encircled by the guards, there was a chain of guards around about them.

Q Will you explain whether those guards were around individual groups of prisoners or around all of the prisoners?

A They were round about all the prisoners because this particular earth work we could put all the prisoners to work, one behind the other.

Q Can you give the court any idea of the distance surrounding the entire group, guarded by these guards?

A It would be about 400 or 200 meters long, all depending, and 25 to 30 meters on the side where the guards were posted.

Q What was Mr. Bongartz' status, was he a civilian, a prisoner, or a soldier?

A He was a prisoner.

MR. MC KAY: Let the record show the accused, ussfeldt, has returned to the dock.

Q Will you explain what the situation was with regard to Mr. Bongartz' moving around the work detail?

A Bongartz had a special man who accompanied him and checked the work. He was completely independent, he could move freely from one group to another.

Q Do you know who the individual was who accompanied Mr. Bongartz?

A Yes.

Q What was his name?

A I didn't have any time to learn his name. I believe it was Wurst or something like that. I learned to know his name here.

Q What was the status of the man who accompanied Mr. Bongartz? Was he a civilian or a soldier?

A He was someone from the infantry. He was not from the SS. He may have been one from the Emergency Militia.

Q During the period of time that this detail from Hersbruck worked in the Nurnberg railroad yard, how many times did you personally have the opportunity to observe Mr. Bongartz' relations with the prisoners who worked under him?

A I would see Bongartz once a day, on the average.

Q During that time will you describe just what you saw with regard to treatment on the part of Bongartz towards the prisoners who worked under him?

A In the first period of time when the situation was a little more severe, I saw Bongartz hit a few times.

Q Just how would he hit?

A With his hand. I would always see it from a distance. I would be standing on a side. But he never had a stick as far as I would see. He would always hit, with his hand.

Q Could you tell whether it was with a closed fist or an open hand?

A As far as I know, it is my opinion that he struck with an open hand.

How far away were you when you would observe that?

(Oelze-direct)

A That could have been 50 to 70 or 80 meters. At any rate he never hit anyone in my presence.

Q Do you have any notes in your book with regard to the dates that the detail from Herzbruck worked at Nurnberg?

A Yes.

Q Can you explain to the court from your notes whether the detail from Herzbruck worked on Sunday or not?

A Yes. All Sundays were worked with the exception of March 11. On the 25th of March they didn't work either, and in Easter, the 1st and 2nd day of April.

Q In what year was that?

A 1945.

Q Mr. Oelze, did you have anything to do with the main railroad station in Nurnberg?

A No.

Q Do you know whether this detail that came from Herzbruck ever worked in the main station?

A Yes. It would happen that when I would ask where Bongartz was, he wasn't at his place of work and I needed him for something, the word was, he was at the main railroad station. It seems there was 150 men from our group that were assigned to the main railroad station.

Q Do you know who assigned them to work there.

A As far as I know it was 1st Lt. Schill.

Q Just what was Lt. Schill's connection with the detail that worked in Nurnberg?

A I only know that in the discussions which he had before the 24th, that is before these people arrived in Nurnberg, that our only duty was to give work to the people.

Q Who informed you of that?

A 1st Lt. of the SS, Schill. That was explained to us during one of these discussions of the lay of the land which was held every evening at 5:00 o'clock, as already mentioned.

Q Were you instructed at this time as to the authority you had with regard to the prisoners?

A He said that all we had to do was to tell the chief capo where the people should work. Everything else was none of our business.

Q Will you explain what, if anything, ever occurred during the time that this detail from Hersbruck was working in Nurnberg railroad yard, with regard to work on Sunday?

A Everybody worked on Sundays, just every weekday with the exception of those days I have already mentioned.

Q Can you explain how it came about that they didn't work on those Sundays?

A Bongartz and the camp elder came to me. The people had to be deloused, they said, and then I explained to him that I was not authorized to do that and that was up to the leader of the work committment, Schwarz and Fischer, and he got in touch with the main authorities and after that these Sundays were free.

Q Do you think that you could recognize Mr. Bongartz if you saw him again?

A Yes.

Q Will you look over the men who are seated behind me and see if you can find the man you knew as Bongartz. Please point him out with your hand.

A The first one in the second row.

MR. MC KAY: Let the record show that the witness has indicated the accused wearing No. 5 as Bongartz.

Q What was the last day that the detail from Hersbruck worked at Nurnberg?

A The 7th of April 1945.

PRESIDENT: The court will take a short recess.

(Whereupon the court took a recess in place.)

PRESIDENT: Court will come to order. Dr. Hacker.

QUESTIONS BY DR. HACKER:

Q I have a number of questions to ask for Schwarz, 43. Do you know the position which 1st Lt. of the SS, Schill, had?

A What do you mean? In regard to whom?

Q That is just what I want to know. For whom did he work?

A 1st Lt. Schill suddenly appeared at the railroad station and said that he had come from the national leadership. I can't give the exact text of what he said. I spoke to him once myself before the prisoners were put to work, and that's when he gave us this notice and then again once, or perhaps twice, when we were discussing the work situation.

Q What I want to know is, were these prisoners who came from Herzbrock and worked there, under his command or did they do work which was designated by the camp of Hersbruck?

A It's my opinion that he had charge of everything, not only charge of the prisoners but also charge of the Germans.

Q Who was the one who had asked for the prisoners in Hersbruck?

A I don't know that.

Q What official position did you have at the transfer railroad station in Nurnberg?

A I was the chief of Division 2 in the transfer railroad station in Nurnberg.

Q How many people did you have under your command?

A That varied. That was from 150 to 2000. It all depended on how much work had to be done.

Q With whom did you carry out these discussions every evening in regard to the work situation?

A I must add something here. The national railroad was divided up into the top leaders and then the office work and then the various command posts. And then these individual places have working command posts, the technical construction place and the rail centers, and in Nurnberg there were two of these at the transfer railroad station in Nurnberg; two of these rail sections, and then in addition to the official command post in Nurnberg at the transfer railroad station, there was the administration of the railroad and the chief of the official command post of the office of railroad work. All the chiefs of the various work posts were present at these daily discussions.

Q What was discussed during these discussions?

A What work had been performed that day and what had been finished, and then the leaders of the individual work sections would receive instructions as to what they would

do on the next day in regard to rails and bridges, etc. and then I must say that the work commitment chief of the administration, of the work office, they were there, too.

Q During these interrogations was only the work duties discussed or were various incidents discussed that occurred at the railroad station?

PROSECUTION: I object to that on the grounds it is leading and suggestive and also on the grounds it is immaterial.

PRESIDENT: Repeat the question, please.

(Thereupon the reporter read the last question.)

PRESIDENT: Objection sustained on the grounds it is a leading question.

Q What topics were discussed on the occasion of such a discussion of the situation?

A Everything was discussed in regard to the work that was performed, the work that was finished and they discussed anything that happened at the railroad station during the day.

Q What do you mean to say by that, "whatever happened at the rail road station during the day?"

A For instance, if a car had jumped the track. And they discussed whether the prisoners were working well or poorly, and they talked about the way the Russians worked, the captured Russians.

PRESIDENT: Court will take a recess in place.

(Whereupon the court took a recess in place.)

PRESIDENT: Court will come to order.

Q Did every chief of a section have to make a report at that discussion in the evening?

A Only the leader of the technical construction and the station masters would present their wishes - what they needed, etc.

Q I'll have to remind you of one thing, Mr. Witness. In this regard two witnesses have appeared here, Abraham Weber and Mendel Rosenbaum, who said that one prisoner was beaten to death at the transfer station in Nurnberg. That is what I am driving at in my questions.

PROSECUTION: I object to that. What you say is not an accurate statement of what the witness testified.

PRESIDENT: Objection sustained.

Q Then I will change my question in the following manner. During such an interrogation, was there ever a discussion that a prisoner had been beaten to death?

A No.

PROSECUTION: May it please the court. May I ask that the witness be cautioned not to answer the question until the question has been translated into English so counsel will have a chance to object to it. That question was highly objectionable on the ground it was leading and suggestive and I move to strike the answer.

PRESIDENT: Motion to strike is granted. At the same time the witness is cautioned he must not answer the question until it has been interpreted by the interpreter. Proceed.

DR. WACKER: I ask the court then to clear up this point because I can't ask the question at all without referring the witness to the incident.

PRESIDENT: The court will clarify that matter at a later period, Dr. Hacker.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did I understand your testimony to be that you know nothing of the work that was being performed by the prisoner detail at the main railroad station?

A I don't know anything about that.

Q You know nothing about the treatment the prisoners received at the main railroad station, is that correct?

A No.

PROSECUTION: No further questions.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY MAJOR LANHAM:

Q Were you working around the railroad station during the whole period that the prisoners were employed near the railroad station?

A Yes. Part of the time was in my office, part of the time I would be at the railroad station.

Q Did you ever hear of any of the prisoners being beaten to death during that period of time?

A No.

Q If one of the prisoners had been beaten to death, is it likely you would known about it?

A I believe I would have because there there were always 200 people working there, not just prisoners, but also civilian employees, and that doesn't even include the railroaders who were working there.

Q Did you ever hear at all of any one of the prisoners being beaten to death?

A No.

Q How did Bongartz treat the prisoners generally, aside from the fact he smacked one once in a while, as I understood

you to say.

A He had a loud mouth. I could only say that in my presence all he ever did was to pass the work on to the various capos. He never beat anyone in my presence.

Q You said that he smacked people once in a while. That was, I assume, based on what somebody told you, is that right?

A Yes. I saw that perhaps two or three times.

Q I don't understand you. You said you didn't see him strike anybody, then you say you saw it two or three times. What do you mean?

A I don't understand the question. In one question I was asked whether Bongartz had hit anyone and I said, "yes", but it wasn't directly in my presence.

PRESIDENT: Was that Bongartz?

WITNESS: Bongartz. We are only talking about Bongartz. I didn't mention anybody else.

PRESIDENT: I thought you said Baumgartz, that is the reason.

WITNESS: Bongartz.

Q We are talking about Bongartz, No. 6, are we not?

A Yes.

Q There were two or three times you say that he struck somebody. You didn't see that, somebody told you that. Is that correct?

A No, I saw that.

MAJOR LAMAN: Was that matter clarified to your satisfaction, Dr. Wacker?

DR. WACKER: Yes, I believe so but I would like to ask the witness, nevertheless, whether the workers in

in his department ould ever have told this witness about it if such a thing had ever occurred/

PRESIDENT: Go ahead, answer the question.

WITNESS: If anyone had been beaten to death my German workers would have certainly reported it to me.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT COL BURGHAM:

Q Do you know if any man was ever taken to the hospital from that detail?

A As far as I know nobody during working hours.

Q Do you know anything about the physical condition of the prisoners on that detail?

A That varied a great deal. There were powerful men there and there were people who were very weak.

Q Were there any sick people on the detail?

A Not doing the work. I didn't notice that anyone was sick doing the work. If anyone had been sick it would have been found out in the morning or in the evening.

Q In other words, you don't know what the condition was, you did not inspect the detail, is that right?

A Well, I saw the people but it was forbidden to do anything with the people or even to talk with them.

Q To put it another way, you didn't know much about what was going on in that detail, is that right?

A What do you mean, "what went on"?

Q You don't know much about the detail?

A No.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Do you know what type of people came from Ravensbruck to work in Nurnberg?

A They were usually foreigners. I don't know whether there were any Germans among them.

Q Do you know whether any provision was made to take care of sick and injured prisoners when they came from Ravensbruck?

A Yes. If I'm not mistaken there were doctors or medics who stayed in a special shack in the construction.

Q What was their status? Were they civilians, soldiers, or prisoners?

A They were prisoners.

PRESIDENT: Any further questions on the part of the defense?

QUESTIONS BY DR. WALTER:

Q Do you know anything about the fact as to whether the prisoners who worked at the main railroad station had access to the freight cars?

A No, I don't know anything about that.

PRESIDENT: Recross?

RECROSS EXAMINATION: No further questions.

PRESIDENT: The court understands the defense is finished with this witness?

MR. MCKAY: That is correct, sir.

PRESIDENT: The witness will be excused. Court will adjourn until 1:00 this afternoon.

(Whereupon the witness was excused and withdrew.)

(Whereupon the court recessed at 1200 hours.)

Floss
11-7-46
McDonald

CAMP DACHAU, GERMANY
7 November 1946

AFTERNOON SESSION

(Thereupon the court reconvened at 1345 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr. Hall and Dr. Engelhorn, who are absent on business of the accused; and all of the accused are present with the exception of Olschewski, Oswalt, Lipinski, who are ill and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

FRANZ LOERKENS, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name to the court?

A Franz Loerkens.

Q Where are you presently residing, Mr. Loerkens?

A In Baden.

Q How do you spell your last name?

A L-o-e-r-k-e-n-s.

Q Where are you residing at the present time?

A In the special camp.

Q Are you now in the custody of the American authorities?

A Yes.

PRESIDENT: The court advises you at the present time that, if you should be asked any question which might tend to incriminate you, you have a right to ask the court to refrain from answering that particular question. Do you understand?

THE WITNESS: Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. McKAY:

Q Mr. Loerkens, what was your duty during the period from the 22d or 23d of February, 1945, until April of 1945?

A I was a watchman with the cleanup detail at the Nuernberg railroad station.

Q And in what capacity were you there--a civilian, a soldier, or a prisoner?

A Soldier.

Q What branch of the service did you belong to?

A The Waffen SS.

Q What particular duty were you performing during the months of March and April, 1945?

A As a watchman.

Q What do you mean when you say watchman?

A To guard the prisoners.

Q In other words, you were a guard?

A Yes.

Q Do you know what column of the detail Nuernberg you were assigned to guard?

A To the first column.

Q Where did the first column work?

A At first they worked at the transfer railroad station, and at the end they worked there where they were putting in a railroad siding.

Q How long did column 1 work on the railroad siding?

A I can't tell you exactly any more. It could have been three or four weeks.

Q Did you know any of the prisoners who were in column 1 during the time you were a guard there?

A No.

Q Do you know whether column 1 ever worked in any other place than there you have just described?

A No.

Q Did you know a prisoner on the Nuremberg detail by the name of Bongarts?

A Yes.

Q What was Mr. Bongarts' capacity on the detail?

A As chief capo.

Q Do you know what his status was, whether a civilian, a soldier, or a prisoner?

A He was a prisoner.

Q Do you know whether he was under guard as a prisoner?

A Yes.

Q I want you to explain to the court what the situation was with regard to injured prisoners in your column during the last three or four weeks prior to the evacuation of Herstruck.

A As far as I know we never had any sick or wounded prisoners.

Q Do you know the name of the guard who was in charge of Bongarts?

A That was Furster.

Q Do you know whether he was an SS man?

A Yes.

Q Do you know what provisions were made within the column which you were in charge of for taking care of sick and injured prisoners?

A Yes. There were several prisoner doctors assigned to the whole commando--the whole work detail.

Q You stated "yes" as to the guard Furster in response to one of my questions. Will you tell the court just what his status was? To what branch of service did he belong?

A He belonged to the Waffen SS.

Q Did you ever see Mr. Bongarts while he was working with the column that you were guarding?

A Yes.

Q Describe what you saw with regard to Bongarts' treatment of the prisoners in that column.

A I can't say anything bad about Bongarts in that respect.

Q What do you mean when you say you can't say anything bad?

A He showed the people what work they had to do and he didn't say anything else.

MR. McKAY: This witness is also being called on behalf of the accused A3. He will be examined by Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q How long did you stay with this work detail which came to Nuremberg from Hersbruck?

A From the 22d or the 23d of February until the 7th of April.

Q When the people marched out of the camp in the morning did they determine how many people had left the camp?

A Yes. The people were counted off, but I don't know how many people were there, because we were only going along as accompanying guards.

Q In the evening did they determine how many people had come back?

A Yes. The personnel strength had to be reported again at the evening by the commando leader.

Q Did it ever happen that someone was missing?

A Not that I know of.

Q Were the people always split up the same way or did that change?

A No, they were always the same columns.

Q Did you take part in the evacuation march from the camp of Herstbruck?

A Yes.

Q In what capacity?

A As a guard.

Q When did the evacuation take place?

A On the 8th of April.

Q How many prisoners left Herstbruck on that occasion?

A That is more than I know.

Q About how many?

A I can't tell you that because I was with the first marching block.

Q Do you know how many people were with your first marching block?

A I would estimate between 450 and 500 men, but I can't tell you that for sure.

Q Who had charge of this marching block?

A Top sergeant Ostertag.

Q What kind of instructions did you get in regard to the treatment which should be given prisoners during the evacuation march?

A There wasn't any further order given out except that we should guard the prisoners.

Q Where did you march to?

A Here to Dachau.

Q Can you give us the march itinerary in brief?

A Yes. I can't give you that any more accurately today, because I was a stranger in the region.

Q Were prisoners shot to death on the march?

A Not that I know of, no.

Q What do you mean "not that I know of"? Did you hear anything about it?

A No.

Q What happened to the people on the march who were sick and could not continue the march?

A They stayed back in Rehmidmuehlen and Saal. They stayed back there, and presumably they were brought over here later.

DR. WACKER: No more questions.

QUESTIONS BY MR. McKAY:

Q I overlooked one point. Do you think you could recognize Mr. Bongarts if you saw him?

A Yes.

Q Will you look over the men seated in the dock behind me and see if you can find the man you knew as Bongarts?

A (Witness indicates.)

Q Come over here and point him out.

A (Witness indicates.)

MR. McKAY: Let the record show that the witness identified the accused No. 5 as Bongarts.

QUESTIONS BY DR. WACKER:

Q Who was the commandant of the camp of Hersbruck?

A Captain of the SS Schwarz.

Q Do you recognize him here in the dock?

A Yes.

Q Please point him out.

A There he sits (indicating).

DR. RACKER: The witness has pointed out No. 43.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q You testified that these prisoners that came from Herstruck on this detail were always in the same group; is that correct?

A Yes.

Q That determined the order of these groups?

A Bengartz divided up the columns.

Q You mean there was one big column that was divided up into groups; is that correct?

A They usually worked together in groups of 100 men.

Q Answer my question, please.

A I can't say that. I don't know.

Q What do you mean by saying column 1?

A That is the first group of 100 men.

Q And you say that the first group of 100 men was always the same?

A Yes.

Q And that was true from February 23 up until the last working day in April 1945?

A Yes.

Q And you guarded the same 100 men throughout that entire period; is that correct?

A Yes.

Q You are sure about that?

A It is possible that someone got sick during that time and

was staying at home. I didn't notice the numbers that accurately.

Q As a matter of fact, you do not know whether the 100 men who worked on the 23d day of February were the same as the 100 men who worked on the 3d day of March either, do you?

A No. I can't tell you that.

Q So that you do not know whether a person who worked in column 1 on February 23 was working in column 1 on March 3 either, do you?

A I think as a rule they were the same ones. There could have been several people who were sick. I can't tell you that with certainty.

Q Do you not know that that group that worked at Auschwitz varied in numbers from as low as 434 to as high as 806?

A That is the first time I heard of that.

Q You seem that is a surprise to you; is that correct?

A I never paid much attention to that. I didn't have the responsibility. The one who had the responsibility was the top sergeant of the SS who counted the people off in the morning and turned them in at night. All we had to do was guard the people.

Q So that when you say you always had column 1 you merely mean by that that you had the first group; is that correct?

A Yes.

Q Is it true that that number of prisoners varied from 408 up to 806 during the period of time from February 24 to the 7th of April?

A I don't know.

Q You were there, were you not?

A Yes.

Q And you still do not know whether that is true at all?

A He always went off with the first group in the morning and brought them back at night. He didn't pay any more attention to that because the top sergeant of the SS always received the people and in the evening turned them over again.

Q There was another group that worked over at the main railroad station, was there not?

A Yes.

Q Did you ever guard that group over there?

A No.

Q Schwarz was on this evacuation from Hersbruck, was he not?

A Yes.

Q You saw him there, did you not?

A Yes.

Q How frequently did you see him?

A I can't remember that exactly anymore today. Various times.

Q You saw him the first day that you left Hersbruck, did you not?

A Yes.

Q You saw him up until about two days before you got to Dachau, did you not?

A Yes. I believe the second day before we reached Dachau was the last day he was with our column.

Q Approximately how many prisoners did you arrive in Dachau with?

A I can't tell you that at all.

Q Give us your best judgment.

A It is hard for me to estimate that either, because I was up in front with the marching block.

Q You saw them come into Dachau, did you not?

A Yes.

Q And you have been a soldier for a good long time, have you not?

A Yes.

Q You know how to estimate numbers of troops and prisoners, do you not?

A Some of the columns joined each other and I didn't pay much attention.

Q You were paying attention to it when you got to Dachau, were you not?

A What do you mean "pay attention"?

Q You were a guard on that column, were you not?

A Yes.

Q It was your duty to watch that column and see that no prisoners escaped, was it not?

A Yes.

Q And as such you had an opportunity to observe the composition of the column, did you not?

A I was up at the head of the column with the guards.

Q You told us that before. Now tell us how many there were in that column that got to Dachau.

A I already estimated that according to my judgment 400 to 500 men went off.

Q From Hersbruck. But how many got to Dachau?

A I can't say for sure. Twenty or 30 men might have been missing.

Q Were there as many as 100 that got to Dachau?

A Oh, yes. More than 100 men.

Q Good. Were there as many as 300 men?

A I estimate that it must have been more.

Q How much more? Was it 350?

A It is hard for me to figure that out. I didn't pay much attention.

Q Paying as much attention as you did, give the court your best judgment as to how many got to Dachau, if it was more than 300.

A I already said that perhaps 30 men were missing. I can't commit myself on that. I just don't know.

Q In your best judgment only 30 men failed to arrive at Dachau; is that correct?

A Yes.

Q How many days did they march?

A I believe it was 16 days. I am not sure.

Q In 16 days only 30 men were lost; is that correct?

A Yes. That is the way I estimate it.

Q Before you left you were given orders concerning the route of march, were you not?

A No.

Q Did you know you were going to Dachau when you left Herstruck?

A No.

Q Were you given a rifle?

A Yes.

Q Were you given ammunition?

A We always had had ammunition with us.

Q How much did you have when you left Herstruck?

A Twenty or 25 rounds, but I am not sure.

Q How much did you have when you got to Dachau?

A The same number.

Q How many guards were there on that column?

A I don't know that exactly either. It could have been 50 guards, but I am not sure.

Q That is your best judgment? About 50 guards?

A Yes.

Q Schwarz was the senior SS man that was present on that march, was he not?

A Yes.

DR. WAGNER: I must object to the way this question was posed, because we have had no basis that Schwarz was even an SS man.

PRESIDENT: The question has already been answered, doctor.

PROSECUTION: No further questions.

PRESIDENT: The court will entertain any motion that you have, as far as that is concerned.

DR. WAGNER: I must make a motion to remove this testimony from the record. Later on I am going to present his paybook.

PRESIDENT: The court will give the prosecutor a chance to answer that motion.

PROSECUTION: I am going on what is in the record. I think he said that he was an SS man.

DR. WAGNER: I withdraw my motion. Later on I will clear up this matter.

PRESIDENT: All right.

PROSECUTION: One more question, sir.

QUESTIONS BY PROSECUTION:

Q Did you pay any attention to Bongartz and the manner in which he treated the prisoners?

A Yes. When he was with the first column which we as guards were guarding he would show the men what work to do, and he didn't say anything else.

Q How frequently did you see Bongartz during the day?

A That all depended. It varied. He would be over two or three times a day. Sometimes more often.

Q Over what length of time did those two or three times a day cover?

A The whole day. I don't know that anymore.

Q How close did you get to the prisoners?

A That all depended on whether the work allowed it or not. Perhaps we'd be at a distance of 10 to 20 meters.

Q What was the greatest distance you were away from him?

A It could have been perhaps 20 meters.

Q Was the distance that you were away from the prisoners determined by the presence of cars that obstructed your view of the work that was being done by the prisoners?

A The last weeks when we were working there at that railroad siding there weren't any railroad cars.

Q Prior to that time would the presence of the railroad cars there obstruct your view and make you get closer or farther away from the prisoners at work?

A Yes. Then we'd have to stand closer to the prisoners.

Q So that you would stand between 10 or 20 meters from the prisoners when the railroad cars were there; is that correct?

A When there were no cars there?

Q When there were cars there.

A That all depended on the situation. Sometimes we'd be standing very close to them and at other spots we'd be standing farther away from them.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Do you know how the prisoners were assigned to column 1? That is, whether by name or number?

PROSECUTION: I object to that, may it please the court, on the grounds that it is leading and suggestive and assumes that they were assigned either by name or by number.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. McKAY:

Q Do you know what the basis was for the assignment of prisoners in column 1?

A No, I don't know that.

QUESTIONS BY MR. WACKER:

Q Do you know what group was working at the main railroad station in Nuernberg?

A At the main railroad station? No, I don't know that.

Q What rank did Schwarz have?

A Captain of the SS.

Q Do you know whether it was possible at that time for a member of the Wehrmacht to receive authority to wear an SS uniform?

A No.

PRESIDENT: Recross?

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You have testified that Schwarz was an SS man. Do you know that to be a matter of fact?

A I only know that he was wearing an SS uniform as a captain of the SS.

PRESIDENT: Any further questions by members of the court?

(Lowrkens - Court)

QUESTIONS BY THE LAW MEMBER:

Q What kind of a uniform was Hurster wearing?

A SS uniform.

Q Who was in command of the evacuation from Horsbruck to Dachau?

A The whole evacuation? That was Schwarz.

Q Did you see a man by the name of Hurster on the evacuation?

A No.

Q You said that you were at the transfer station at Nuerenberg; is that correct?

A Yes, during the first period of time.

Q During what period?

A That was during the first 14 days or the first three weeks; after that we worked at this railroad siding.

Q Were you with that group No. 1 all of the time?

A Yes.

Q Did you hear of any of the inmates being beaten to death during that period that you were with them?

A No.

Q Did you hear of Longarts beating anybody during that time?

A No.

Q You said that Hurster was a member of the SS. Do you know for sure whether he was a member of the SS or was he just wearing an SS uniform, as far as you know?

A Yes, he was wearing the SS uniform.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q How could a guard replenish his missing ammunition on this evacuation march?

(Loerkens - Court)

A There wasn't any replacement for ammunition.

Q Could anybody beside the SS wear an SS uniform?

A I don't know that.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q Did you ever see any mistreatment of prisoners on the job or in the camp or on the evacuation march?

A No.

Q What do you call mistreatment?

A If he had been beaten.

QUESTIONS BY THE PRESIDENT:

Q Did you see any dead bodies either alongside the road or in a bivouac or any other place during the course of the evacuation march?

A No.

Q Not a single one?

A No.

Q Did you see anybody sitting alongside of the road that was incapacitated and unable to continue the march?

A No.

Q Are you sure about that?

A Yes.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SKIALVIG:

Q What part of the column did you march in on the evacuation march? Did you march at the head of it, the middle of it, or the end of it?

A At the head of the column.

Q Did you ever hear any shooting on the march?

(Loerkens & Court)

A No.

QUESTIONS BY LT. COL. BURCHAM:

Q How many other people were there at the head of that column other than prisoners?

A The guards marched to either side of the prisoners.

Q How many guards were there ahead of you?

A Three. Three men.

QUESTIONS BY THE PRESIDENT:

Q. Do you mean to say that during the course of this march not a single person fell out due to injuries or fatigue or anything of that nature?

A I didn't see any.

QUESTIONS BY THE LAW MEMBER:

Q Did you have an officer or an underofficer by the name of Moore or some such name on the evacuation march?

DR. WACKER: I believe that the law member mispronounced the name. I believe the name is pronounced Mahr.

Q Moore or Mahr?

A No.

Q Did you know an officer or an underofficer by the name of Moore or Mahr?

A There was a certain Mahr with us in the camp.

Q What was his rank?

A I don't know that anymore today. He was a first sergeant of the SS or a master sergeant.

Q Was he on the evacuation march?

A I don't know that.

Q What was your rank?

A Corporal.

LAW MEMBER: That is all.

(Loerkens - Court)

A No.

QUESTIONS BY LT. COL. PURCHAS:

Q How many other people were there at the head of that column other than prisoners?

A The guards marched to either side of the prisoners.

Q How many guards were there ahead of you?

A Three. Three men.

QUESTIONS BY THE PRESIDENT:

Q. Do you mean to say that during the course of this march not a single person fell out due to injuries or fatigue or anything of that nature?

A I didn't see any.

QUESTIONS BY THE LAW MEMBER:

Q Did you have an officer or an underofficer by the name of Moore or some such name on the evacuation march?

DR. WACKER: I believe that the law member mispronounced the name. I believe the name is pronounced Mahr.

Q Moore or Mahr?

A No.

Q Did you know an officer or an underofficer by the name of Moore or Mahr?

A There was a certain Mahr with us in the camp.

Q What was his rank?

A I don't know that anymore today. He was a first sergeant of the SS or a master sergeant.

Q Was he on the evacuation march?

A I don't know that.

Q What was your rank?

A Corporal.

LAW MEMBER: That is all.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q Did you ever see anybody strike a prisoner?

A No.

Q With his hand?

A No.

QUESTIONS BY THE PRESIDENT:

Q You were present with that column the entire time; is that correct?

A Yes.

PRESIDENT: Any further questions by members of the court? Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q How were the sick people and the people who were not capable of marching taken along on the occasion of this evacuation?

A One people stayed back in Schmidmuehlen and Saal who were incapacitated and couldn't continue the march.

Q I must call your attention to the fact that you cannot just assume that the only two places where people who were incapacitated remained behind were these two spots, Schmidmuehlen and Saal. What happened to these people before these two places were reached?

PROSECUTION: I object to counsel arguing with the witness, may it please the court.

PRESIDENT: Objection sustained. Rephrase your question.

DR. WACKER: I withdraw the question.

QUESTIONS BY DR. WACKER:

Q Were the only sick people in Schmidmuehlen and Saal?

A I don't know that. One or two vehicles would drive on behind us, usually.

PRESIDENT: Recross examination

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Were you ever guarding a detail between February and April which had as its job the shifting of railroad cars?

A Shifting railroad cars? No.

PROSECUTION: No further questions.

EXAMINATION BY THE COURT (continued)

QUESTIONS BY THE PRESIDENT:

Q Did you ever see any individuals in this transportation in the rear of the column? The court is referring to incapacitated individuals.

A No.

QUESTIONS BY COLONEL JACKSON:

Q You stated that those vehicles followed your first column?

A Yes.

Q What were they for?

A They were carrying some baggage of us, and then prisoners who would fall out of the ranks and couldn't continue the march. They were supposed to be taken by these vehicles into our next stopping place.

QUESTIONS BY THE PRESIDENT:

Q Did your column have a burial detail with it also?

A No.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SKIELVIG:

Q Did you see Bongarts on the evacuation march?

A No.

LT. COL. SKIELVIG: No further questions.

QUESTIONS BY COLONEL JACKSON:

Q How much baggage was carried on these wagons?

A The wagons were constantly changing. He'd stop at some place and get new wagons from the farmers there.

Q My question was how much baggage was carried on the wagons.

A There was usually the knapsacks of us guards. We didn't have any more baggage.

Q Was there anything else carried on the wagons?

A I don't know.

QUESTIONS BY THE PRESIDENT:

Q Did you hear Schwarz put out any order just prior to the march or at any time during the course of the march?

A No.

Q When you saw Schwarz during the course of the march, just what was he doing?

A He came by and spoke to the work detail leader. I don't know anything else.

Q Did you see anything out of the way as far as the guards are concerned during the course of this march?

A No.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q At what time of day did the evacuation march begin?

A In the morning.

Q What time in the morning?

A That must have been around 8 o'clock.

Q When you speak of 8 o'clock, do you refer to the fact that the march started then?

A I don't know exactly what time it was. I assume it was 8 o'clock.

(Loerkens - Redirect)

Q When did you cease marching?

A It may have been around 4 o'clock in the afternoon. I don't know anymore exactly.

PRESIDENT: Any further questions by members of the court? Apparently not. The court understands the defense are finished with this witness.

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. McKAY: Let the record show that the accused Hisbusch has returned to the dock.

The next witness is Max Gutmann. He is being called on behalf of the accused 43 and 5.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

(Whereupon the court reconvened at 1450 hours.)

PRESIDENT: The court will come to order.

MAX GUTMANN, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name to the court.

A Max Gutmann.

Q Gutmann, where do you reside?

A Loerrach.

Q Where do you reside now?

A Here at cage 3 in captivity.

Q Here in Camp Dachau?

A Yes.

Q In the custody of the American authorities?

A Yes.

PRESIDENT: The court advises you at the present time that, if you should be asked any question which might tend to incriminate you, you have a right to request the court to refrain from answering that particular question. Do you understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Mr. McKay.

QUESTIONS BY MR. McKAY:

Q Mr. Gutmann, did you ever have any connection with the camp of Herstruck?

A Yes.

Q What was your connection with camp Herstruck?

A In the middle of February until the 6th of April I did duty there.

Q What was your status there? Were you a civilian, a soldier, or a prisoner?

A Soldier.

Q To what branch of the service did you belong?

A The Death Head storm unit, Flossenburg.

Q What was your particular duty during the period from February until March of 1945?

A I worked at the railroad station in Nuernberg.

Q What was your duty?

A As leader of the guards.

Q What was your duty as leader of the guards at the railroad station in Nuernberg?

A I had to take care of filling up bomb craters and building tracks.

PRESIDENT: The court will take a half-hour recess.

(Thereupon the court recessed at 1500 hours.)

(Thereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present who were present before this last recess, with the exception of Colonel Wilson and Mr. O'Connor.

The witness is reminded that he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: Proceed, Mr. McKay.

MAX GUTMANN, called as a witness for the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. McKAY:

Q Mr. Gutmann, in connection with your duties in checking the guard on detail Nürnberg, did you have any duties with regard to checking prisoners?

A No, I only checked the guards.

Q When you arrived in the morning with the detail did the guard come along with the prisoners?

A Yes.

Q Did your guards return with the prisoners in the evening?

A Yes.

Q Will you explain to the court what the situation was during the period beginning in February and ending in March of 1945 with regard to sick and injured prisoners being returned to Herzbruck from detail Nürnberg?

A There weren't any sick people taken back.

Q Were any people of any kind who were incapable of working taken back?

A I don't understand you there. No.

Q During the time that you were in charge of this detail how many separate columns did your guards have charge of?

A One column; 100 men.

Q And where did that column work?

A They were split up into three working groups.

Q Where did these three working groups work?

A At the transfer railroad station.

Q Did all three groups work in the railroad station?

A Yes.

Q What was the nature of the work they were doing in this transfer railroad station?

A They built rails.

Q Will you explain what if anything unusual occurred during the time that this detail was there?

A There was an air attack.

Q What happened as a result of the air attack?

A Nothing happened. We all immediately rushed for cover, and afterward we all found our way back to each other again.

Q During the time that you were with this detail that worked in the transfer railroad station, did you come in contact with a prisoner by the name of Bongarts?

A Yes.

Q What was Mr. Bongarts' duty with regard to the column that you were with?

A He came and saw whether the prisoners were doing everything correctly. He would issue work and then he would go on.

Q Did you observe how he treated prisoners?

A No.

Q Did Mr. Bongartz remain with your column all the time?

A No.

Q What was Mr. Bongartz' status--an SS man, a civilian, or a prisoner?

A Prisoner. Chief cargo.

Q Explain to the court what provisions were made with regard to guarding Mr. Bongartz.

A There weren't any particular measures taken.

Q During the time that the prisoners were working in this transfer railroad station, describe to the court what the conditions were with regard to their pilfering of railroad cars.

A If there was any plundering going on it had to be reported.

Q Explain what plundering took place, if any?

A I never saw any time when the plundering was actually going on.

Q Did you ever hear of it?

A Yes.

Q Explain what if anything Bongartz did following these plunderings that you heard about?

A On one occasion someone reported to Bongartz that there had been plundering, but nobody knew who had done the plundering and Bongartz didn't pass the report on any farther.

Q Will you explain to the court what regulations there were with regard to plundering of railroad cars by the prisoners?

A There weren't any special instructions.

Q Do you think you could recognize Mr. Bongartz if you saw him again?

A Yes.

Q Will you look over the men seated behind me in the dock and see if you can recognize the man you knew as Bongarts?

A (Witness indicates.)

Q Come down and point him out.

A There (indicating).

MR. McKAY: Let the record show that the witness has identified the accused No. 5.

Dr. Wacker will ask some questions in behalf of the accused 43.

QUESTIONS BY DR. WACKER:

Q Who was commandant of the outside camp of Herstruck?

A Captain of the SS Schwarz.

Q Please take a look around and see if he is among the accused.

A Yes.

Q Point at him.

A Schwarz; 43.

Q In the morning who checked how many prisoners had marched off to Nurnberg?

A The block leaders counted them when they marched out.

Q And in the evening who determined how many had returned?

A The block leaders also.

Q Please tell us if anything unusual happened when these people were being counted off or whether anyone was missing.

A I never noticed anything.

Q How was the health of the prisoners taken care of on the train? How were the sanitary conditions of the train on the way to Nurnberg?

A We were loaded into railroad cars and drove off to Nurnberg.

Q Were there doctors along?

A Yes.

Q How many?

A Three.

Q Were they SS people? Were they prisoners or civilians?

A They were prisoner doctors.

Q Can you tell us anything about the food of the prisoners?

A I can only tell you about it in Nürnberg, not in the camp.

Q Please tell us how the food was in Nürnberg?

A The same food that we got.

Q What kind of food was it?

A Bread, margarine, and sausage.

Q How much bread?

A I can't tell you exactly. Sometimes four pieces from a large loaf and sometimes five pieces. Two thousand grams of bread.

Q Did you take part in the evacuation march out of Hersbruck?

A Yes.

Q In what capacity?

A As a guard.

Q How many prisoners left Hersbruck?

A There were five to six hundred with my marching column.

Q How many columns were there?

A I can't tell you exactly. We went away as the first ones.

Q Were you with the first column?

A Yes.

Q Who had charge of this column?

A Sergeant of the SS Ostertag; first sergeant.

Q Was Schwarz present at this evacuation march?

A I saw him once personally when he came by in the food car and brought some more marching orders.

Q How many times did you see Schwarz during the whole evacuation march?

A Two or three times.

Q What kind of food did you get on the evacuation march?

A It was good for the first days, as long as we got supplies, and then you had to see to it that you got your own food.

Q Could you get it or could you not?

A Yes, we got it.

Q How were the prisoners fed?

A All depended on what we got from the farmers.

Q What kind of orders did you have during this evacuation march?

A Didn't have any orders.

Q Were prisoners shot to death during the evacuation march?

A I don't know.

Q Did you see anybody who was shot to death?

A No.

Q What happened to sick people or people who were no longer able to continue the march?

A At one place they were asked to stay behind--those who couldn't march on.

Q And what happened with them there?

A They stayed there and guards were placed with them. What happened to them from then on is more than I know.

Q What happened to someone who could not continue the march as the march was in progress?

A They stayed behind. We would turn them over to people, such as people who were building tank traps, and we told them that they should give them to the people who were bringing the vehicles and they would bring them up.

Q Are you talking about wagons? What kind of wagons were they?

A In all the places where we spent the night the top sergeant would look around and try to get horses and wagons so that

he could bring the people along who were incapacitated and couldn't continue the march.

Q How long did the entire march last?

A I can't tell you any more exactly.

Q Just approximately.

A I know that we left the 8th of April. Perhaps it lasted until the end of April. I don't know exactly.

Q Can you approximate the march itinerary.

A No, not exactly. I know that we passed through Schmidmuehlen and Kalheim and here to Dachau.

DR. WACKER: No further questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q How many men were included in this Number, detail?

A Eight hundred men; seven to eight hundred men.

Q And you guarded only a portion of that group; is that correct?

A Yes; 100 men.

Q Where was the group divided up into various columns?

A At the transfer railroad station.

Q And one column would go to the main railroad station and the other columns would remain at the transfer station; is that not correct?

A Yes.

Q You know nothing about who guarded or who worked in the column that worked at the main railroad station, do you?

A No, I don't know that.

Q You say you guarded the first column of 100 men?

A Yes.

Q Did that first column have fixed personnel belonging to it?

A Yes.

Q How do you know that?

A I knew the capo and he always told me that they were the same people.

Q What was the capo's name?

A I don't know.

Q How well did you know him?

A From looking at him if I saw him.

Q Anything else?

A No.

Q Was it always seven to eight hundred men that went to Nürnberg to work?

A It was just about always the same number. I don't know exactly.

Q Would it surprise you to know that on the 23rd of March only 408 prisoners went to Nürnberg to work?

A I don't understand that.

Q Is it true that on the 23rd of March only 408 prisoners went to Nürnberg to work?

A I don't know.

Q So you don't know whether or not the personnel of those columns was the same at all, do you?

A The 100 men in my group was always the same ones.

Q Can you give me the names of any of the men in that group?

A No.

Q How many Russians did you have in that group?

A I don't know.

Q How many Poles did you have in that group?

A I don't know any of them at all according to their nationalities.

Q How do you know they were always the same, other than the fact that this capo whom you don't know told you that they were the same?

A You know the people by looking at them.

Q But you do not know whether they were Poles or Russians. How many Germans did you have there?

A I only knew the capo because I spoke German, and once in a while he would talk to me in regard to the work.

Q Will you answer my question?

A I don't know.

Q Did all the prisoners have on the prison uniform of striped clothing?

A They usually wore this striped clothing, but they also wore clothing which wasn't regulation prison uniform, such as jackets, outside clothing.

Q Is it not a fact that the only thing you know about that group that you guarded is that it was composed of a hundred men each time you guarded it, and that is all?

A Yes.

Q Was it unusual that there were no orders issued for this evacuation march from Hersbruck to Dachau?

A No.

Q That was customary procedure in the SS?

A Before we shoved off we were told that they didn't know where we were going--that we shouldn't take much baggage along and we don't know whether we are ever coming back again.

Q Were you given any arms?

A Yes.

Q What were you carrying?

A My pistol.

Q And how much ammunition did you have?

A Sixteen rounds; zero thirty-five.

Q At what position in the column did you march?

A That varied. I'd be up front; then I'd be in the back again.

Q In other words, you moved from one position in the column to another; is that correct?

A Yes.

Q It took about 12 to 14 days, did it not, to get from Hersbruck to Dachau?

A That could be right, yes.

Q If it is wrong approximately how wrong is it?

A I don't know exactly how long it lasted.

Q How long did you remain in Dachau after you got here?

A One day or two days.

Q And then where did you go?

A Then we marched off in closed ranks in the direction of Tegernsee.

Q On what date was it that you marched off to Tegernsee?

A It must have been the beginning of May or the end of April. I don't know exactly.

Q Was it the 29th of April?

A I don't know exactly.

Q Approximately how many prisoners arrived in Dachau from that transport that left Hersbruck?

A I don't know.

Q Give the court your best judgment, briefly.

A How many reached Dachau?

Q Yes.

A I don't have any idea. Various ones ran away underway, and in Schmidmuehlen we left some behind--sick people who couldn't continue any more--we left them there.

Q And approximately how many does that add up to?

A The top sergeant made notes about that and turned over his notes. He didn't have any idea about that.

Q How long have you been a soldier?

A Since 1940.

Q During those five years you had opportunities to learn how to estimate the number of troops that are present in a body or the number of prisoners that are present in a body?

A I don't understand your question.

Q During the five years that you were a soldier, Gutmann, is it not a fact that you learned how to estimate the number of persons that appeared in a group?

A It is easy to estimate the number of people in a small group, but in a large group of hundreds of people it is not so easy.

Q You had an opportunity to observe this group on the way from Herstbruck to Dachau, did you not?

A Yes.

Q And you were able to tell when you were at work back in the yards at Nurnberg that you had the same 100 men in that group each day, were you not?

A The guards always counted them.

Q Based upon your opportunity to observe this column from Herstbruck to Dachau, tell the court in your best judgment, please, how many of those prisoners arrived here in Dachau?

A I don't know.

Q Have you got any judgment about it at all?

A No.

Q Where was the place that you spent the last night before you arrived in Dachau?

A I don't know anymore what the name of the town was.

Q How far was it from Dachau?

A I can't tell you that either.

Q Are you having any trouble with your memory?

A No, I don't, but that happened a long time ago.

Q You never suffered from any illness that affected your memory?

A No.

Q Did you pass through Cham on your way to Dachau?

A I don't know Cham. I don't know.

Q Did you pass through Straubing on your way to Dachau?

A I heard that name once, but I don't know whether we passed through that town or not.

Q From whom did you hear that name?

A I don't know anymore. I know that one of the town's names was Brunn.

Q How many days was it before reaching Dachau that you passed through Brunn?

A I don't know anymore. Brunn--that must have been on the first or second day.

Q How many people were left lying dead in Brunn?

A Nobody; none.

Q Some of the people in this first column came from block 2 in Hersbruck, did they not?

A I don't know.

Q How long were you stationed at Hersbruck?

A From the beginning of February until the evacuation.

Q Did you see any dead bodies lying along the road from Hersbruck to Dachau?

A No.

Q Did you hear any shots fired while the evacuation was in progress from Hersbruck to Dachau?

A Yes.

Q Where did this shooting take place?

A I don't know.

Q When did it take place?

A Whenever there was an air attack there would be shots in every corner toward the attacking airplanes in every direction.

Q You mean the guards of these prisoners fired at the planes that came over?

A I didn't see that.

Q Did you hear it?

A Shooting?

Q Yes, shooting.

A The Wehrmacht--the army--was scattered out in the forest and along the roads everywhere, and they were shooting at the fliers.

Q Did you hear any of the guards firing at these attacking planes?

A No.

Q Other than at the time that there were air attacks, did you hear any shooting while this evacuation was in progress from Hersbruck to Dachau?

A No.

Q How many vehicles were there at the end of the column?

A I never got back to the end of the column.

Q I thought you told this court that you moved from various positions in the column from the front to the rear?

A Yes, in my column.

Q That is what I am talking about.

A There was one vehicle there.

Q That was loaded with your baggage; is that not correct?

A Yes, and with sick prisoners.

Q How many sick prisoners did you have when you got to Dachau--on that wagon?

A I wasn't able to see this wagon because the wagon came on much later.

Q Were you present when the prisoners marched into Dachau?

A Yes.

Q And you still cannot tell the court how many there were in that group that marched into Dachau; is that correct?

A No. They were counted off up front where they went in, but I wasn't up there.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q The court and the prosecution would like to find out whether a great many prisoners were missing after the column had reached Dachau--whether as many as half of them were missing or estimate as best you can about how many were missing.

A You can't say that there were so many missing, because the column had the same appearance when it arrived here and was turned over as it had when it first left.

Q You are not being asked to estimate whether 27 men were missing or 35 were missing. You are being asked to estimate whether a hundred were missing or very few were missing or just how it was.

A Only those were missing whom we had left behind.

Q Did Schwarz also have this other column underway to Dachau? Did he have control of that column?

A You mean the column that came after my column?

Q No. I mean this column from here to Tegernsee?

A We were alone then. We didn't have any prisoners. We didn't have anybody anymore.

DR. WACKER: No more questions.

QUESTIONS BY MR. McKAY:

Q When the prisoners went to work in the morning on detail Nurnberg, explain to the court what the situation was with regard to prisoners leaving the train prior to the time that it reached the place where your column went to work.

A We arrived in Nürnberg; everybody got out of the train; each one took over the group of a hundred men who had been assigned to him, and then we marched to our place of work and then the work began.

Q Will you explain to the court whether all of the men who left Hersbruck actually arrived at the station where your column went to work?

A Yes. The only thing I did was take over my group of a hundred men, and they were always all there.

Q How about the men from other details?

A I didn't have any insight into that.

MR. McKAY: That is all.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Any questions by members of the court? Apparently not. Does the defense have anything further?

DR. WACKER: No.

MR. McKAY: Nothing further.

PRESIDENT: The court understands the defense is finished with this witness.

MR. McKAY: That is correct, sir.

PRESIDENT: The c ourt will take a short recess in place.

(Whereupon the court recessed in place.)

(Whereupon the court reconvened at 1630 hours.)

PRESIDENT: Court will come to order. Mr. McKay, anything further?

MR. McKAY: Due to language difficulty I am going to ask Dr. Wacker to help me out on a question.

REDIRECT EXAMINATION (continued)

QUESTIONS BY DR. WACKER:

Q During the train trip from Herstruck to Nurnberg, did all the people reach the transfer railroad station or were some people dropped behind or quartered underway?

A During the last time--the later period--I drove to Nurnberg with my group of a hundred men all along.

Q Where did the others stay?

A The others got out in Fearzfelt.

DR. WACKER: No further questions.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q Was anybody beaten to death during the time that you were on duty at the transfer railroad station at Nurnberg?

A No.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q Did you ever see anyone beaten?

A No.

Q Did you ever see anyone struck by another person on that detail?

A No.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect?

MR. McKAY: Nothing further.

PRESIDENT: Recross?

PROSECUTION: Nothing further.

PRESIDENT: The court understands the defense is finished with this witness?

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness withdrew.)

MR. McKAY: The next witness is called on behalf of the accused 43 and 5.

FRANZ HEISER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION:

QUESTIONS BY MR. McKAY:

Q Will you state your name to the court.

A Franz Heiser.

Q How do you spell your last name?

A H-e-i-s-e-r.

Q Where are you now residing, Mr. Heiser?

A In Dachau.

Q And in what part of Dachau are you being detained?

A Cage 3.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: Heiser, the court advises you that if you should be asked any question that might tend to incriminate you, you have a right to ask the court to refrain from answering that particular question. Do you understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Mr. McKay.

QUESTIONS BY MR. McKAY:

Q Mr. Heiser, did you ever have any connection with the camp of Hersbruck?

A Yes.

Q What was your connection with Hersbruck?

A I was a guard.

Q To what unit of the armed services of Germany were you assigned while you were a guard at Hersbruck?

A I was there as a guard. What do you mean by branch of service?

A Did you belong to the Wehrmacht, the SS, the air corps, or what?

A Member of the SS.

Q In your capacity as a guard at Hersbruck, did you ever guard any of the out details that worked out of Hersbruck?

A I was in Nürnberg in the capacity of a guard, yes.

Q When did you first take up your duties as a guard at Nürnberg?

A Beginning in March, 1945, I first took up my duties as a guard in Nürnberg.

Q And what did you guard while you were in Nurnberg?

A Prisoners.

Q Do you know what columns of prisoners you were assigned to guard while you were in Nürnberg?

A When I was a guard in Nürnberg I guarded column 1. No, I mean to say column 2, please.

Q How many prisoners were in your column at that time?

A There was a hundred men.

Q Did you remain with this same column all the time that you were in Nürnberg?

A No. At first I was with another column.

Q What column was that?

A Column number 2. No, I mean to say column 1.

Q During the time that you were a guard in charge of columns 1 and 2, did you have any contact with a prisoner by the name of Bongartz?

A Yes, he was active there as a chief capo.

Q What duties did you observe him perform as chief capo?

A He had the supervision over the whole column there.

Q Can you give the court any idea of how many times in the course of a day Mr. Bongartz would visit the column that you were assigned to guard?

A Once and sometimes twice a day. It all depended.

Q Did you have an opportunity to observe how Mr. Bongartz treated the prisoners who worked in your column at that time?

A Yes, I could see that.

Q Describe to the court what you saw with regard to Bongartz' treatment of the columns that you were guarding.

A He would come over to take a look at the column. He stayed there about 15 minutes. He would tell them what work to do and then he would go on.

Q How would he act towards the prisoners themselves?

A He acted well toward them.

Q What do you mean by acted well toward them?

A When he was there he behaved well toward them.

Q How long did you continue to act as guard for these columns in Nürnberg?

A Five weeks.

Q Was it your custom to return as a guard with the prisoners at night?

A We came back with the prisoners every night, yes.

Q Will you describe just what happened after the work was completed and the prisoners were made ready to return to Herstbruck at night?

A Nothing happened.

Q How many columns were there in this detail Nurnberg altogether?

A There were about eight columns. I don't know exactly.

Q Describe briefly how these columns would return to Herstbruck.

A The people all got ready and went over to the train from the places where they had been working and got in the train.

PRESIDENT: The court will adjourn until 9 o'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 8 November 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: Einzelheiten: .....

Second Charge: Zweite Anklage:

Particulars: Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at ..... By Order
um Uhr stattfinden. Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8
First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

Pages 6374 - 6456 incl.

Case No. FLOSSENBURG

~~*Summary~~
~~*Intermediate Military Court~~
*General

Place DACHau, Germany

Date 8 November 194 6

Prosecutor

Defence Counsel

Interpreter

Reporter

Members of Court:

WITNESSES:
FRANZ HEISER
FRITZ ROLLER
WILLI SCHLAGINTWEIT

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

[illegible] OF [illegible] TESTIMONY

in trial of

[illegible] Versus [illegible]

by

[illegible] COURT

tried at

[illegible] GERMANY [illegible] 12 JUNE 1946

[illegible] 1946 Pages 6374 - 6466 incl.

TESTIMONY

WITNESSES	Direct	Cross	Redirect	Recross	Court
[illegible]	6374	6379	6393	6392	6386
FRITZ MULLER	6394	6420		6438	6441
[illegible]	6445				

EXHIBITS

NONE

Tu 587 11-8-46
pls/1
Flossenburg

Camp Dachau, Germany
8 November 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours)

PRESIDENT: Court will come to order.

MR. SCHWEITZ: If the court please, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Col. Denson and Mr. Pinter who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Dr. Engelhorn who is absent on business of the accused; all the accused are present with the exception of Olschewski, Oswalt, Lipinski, Mussfeldt, Gielsman and Wurst, who are sick in the hospital and whose interests are being taken care of by counsel.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

FRANZ HEISER, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. MC KAY:

Q Mr. Heiser, before the court closed we were talking about the column returning to the train in the evening, do you recall that?

A Yes.

Q Mr. Heiser, I would like to have you describe for the court just what you saw when these columns would return in the evening, get on the train to return to Hersbruck, with regard to sick and wounded prisoners.

(Heiser-direct)

A There were no sick and wounded prisoners.

Q Did that situation exist all during the time that you were a guard on the detail in Nuernberg?

A Yes.

Q That was the last date that you were on detail Nuernberg?

A April 7, 1946.

Q Do you think you could recognize Mr. Bongartz if you saw him again?

A Yes.

Q Will you look over the defendants behind me in the dock and see if you can recognize the man you knew as Bongartz?

A There he is (indicating).

Q Come over and point him out. Come right down here.

A There he is, sitting there.

MR. MCNAY: Let the record show that the witness has identified the accused, No. 5, as Bongartz.

MR. VECK R: I am interrogating on behalf of Schwarz.

Q Where were you born, Mr. Heizer?

A Yugoslavia.

Q Are you a German citizen?

A No.

Q When did you join the SS?

A The 4th of November 1940.

Q When were you sent to Hersbruck?

A The beginning of April 1945. No, February, it was.

Q Who was the commandant of the outcamp Hersbruck, at that time?

A Capt. Schwarz.

Q Could you recognize him if you would see him among the accused? Please see if you can recognize him.

A Yes, here he is. (indicating.)

MR. MC KAY: The witness has pointed out No. 43 as being Schwarz.

Q Did you participate in the evacuation march from Camp Hersbruck?

A Yes.

Q When was the camp evacuated?

A The 5th of April 1945.

Q How many prisoners took part in this evacuation march?

A I don't know exactly. There were about 300 to 500 people in our marching block. The captain should know that better than I.

Q With which marching column were you?

A Column 2.

Q Do you know how many marching blocks there were?

A I don't know exactly.

Q Mr. Heiser, wait until the question has been translated. Who was the detail leader of marching block 2?

A T Sgt Marr.

Q Where was the march supposed to go?

A To Dachau.

DEFENSE COUNSEL: May I ask the court's permission to take out the the accused, Mathol, for questioning?

PRESIDENT: Granted.

(Whereupon the Defense Counsel and accused, Mathol, withdrew from the court.)

Q How long did the march from Hersbruck to Dachau take?

A How long it took?

Q Yes.

A We left the 8th of April and it lasted until about the end of April. I don't know exactly.

Q Did you yourself arrive at Dachau?

A Yes.

Q With how many prisoners did you commence the march and with how many prisoners did you arrive?

A I don't know exactly. I didn't go with the prisoners, I went with the SS, with the baggage detail.

Q What was your duty during the evacuation march?

A To watch the equipment.

Q How was this equipment transported?

A With two vehicles.

Q Was this equipment transported for each column seperately or for the whole transport?

A That was for our marching block.

Q Where did you get the two vehicles?

A In Hersbruck.

Q Did those same two vehicles that you had picked up in Hersbruck arrive in Dachau?

A No.

Q What happened to those vehicles?

A They went to Schmidmuehlen and then they went back.

Q What happened to the things that were on there?

A They were put o to other vehicles there.

Q Was anything else transported with these vehicles outside of the baggage?

A Yes, prisoners who couldn't walk anymore were taken to Schmidmuehlen.

Q What happened to these prisoners there, to the sick?

A I don't know.

Q Were there sick people betw en Schmidmuehlen and Dachau?

A Yes.

Q What happened to those?

A They were put into a train in Saal on the Danube and taken to Dachau.

Q Can you state how many sick people were in Schmidmuehlen and in Saal?

A In Schmidmuehlen about 30 men, and in Saal, I don't know. I don't know how many they had there.

Q Were these 30 men only from your column, Column 2, or were they from other columns, too?

A From our column.

Q Did you see any shootings on the march?

A No.

Q Did you hear shooting?

A No.

Q Did you see that any prisoners were buried?

A No.

Q I will ask you to answer one more question concerning the work detail, Nuernberg. How many prisoners did the train usually take from Hersbruck to Nuernberg?

A 600 to 800 approximately.

Q Were all of the 600 prisoners taken to the railroad station in Nuernberg or did some of them get out before?

A At first, all of them got out there and worked there but later on, others got off at the main station who worked at the main station and at Muenchfeld.

PRESIDENT: Cross examination

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Where was Maerzfeld in relation to Nuernberg?

A Nuernberg was before we reached our railroad station. I don't know how much difference from it.

Q Was it close to the station?

A There was Maerzfeld and there were several stations on the way until we reached our station.

Q Was Maerzfeld within the vicinity of Nuernberg?

A Yes.

Q Was it inside Nuernberg, do you know?

A On the outside of Nuernberg.

Q Right next to it?

A I don't know my way around in Nuernberg. I don't know exactly where it was located.

Q But part of the Nuernberg detail worked at Maerzfeld, is that correct?

A Yes. We drove ahead, they got out there, and I don't know what they worked on.

Q Did Bongartz have charge of the detail that worked at Maerzfeld?

A Yes.

Q Did you have an opportunity to see how he treated prisoners at Maerzfeld?

A No.

Q Did you have an opportunity to see how he treated prisoners at the main railroad station?

A Yes, I had opportunity.

Q Did you work at the main railroad station?

(Heiser-cross)

A Not in the main railroad station, in the freight station. I couldn't see anything in the main station. I worked in the freight station.

Q Do you know a man who testified by the name of Loerkens?

A The name is known to me.

Q Do you know Gutmann?

A Yes.

Q Wurster?

A I know him, too.

Q Roller?

A I don't know Roller.

Q Before you testified did you talk over the testimony with Loerkens, Gutmann or Wurster? The testimony you were going to give?

A No.

Q You had no discussion with them at all concerning the testimony they were to give or you were to give?

PRESIDENT: Just a minute. Witness, face right to the front when you talk. You can turn your head to listen to the interpreter but when you say anything, I want you to face to the front. Tell right to the court.

Q With whom did you discuss the testimony you were to give?

A With no one.

Q Did you discuss it with the Defense Counsel?

A No.

Q Did you tell to the accused?

(Meister-cross)

A I talked to the accused.

Q What was your conversation?

A Here.

Q Was it about the testimony you were to give here?

PRESIDENT: Just a minute, Mr. Gerschowitz. I don't believe that is material, the conversation between this particular witness and the accused, unless you can indicate to the court that it is. If there has been any conversation from the time this witness left the stand last night and this morning, that is a different proposition.

MR. GERSCHOWITZ: I will withdraw the question.

Q Did you ever see anybody struck on the Nuernberg detail?

A No.

Q By any capo?

A No.

Q Do you know whether anybody who was injured on that detail was left behind in Nuernberg?

A No.

Q Are you a Volksdeutsch?

A Yes.

Q You said you didn't march with the prisoners, you marched with the SS. How many men did you march with?

A Not with the SS but with the SS baggage department.

Q How many men were with that baggage?

A Two men.

How was this baggage drawn?

A By horses.

(Cross-cross)

Q How many horses?

A There were two horses before each cart.

Q Did you stay with the baggage the whole day?

A Yes.

Q How far behind the column of prisoners was the baggage?

A From Hersbruck to Schmidmuehlen we were behind the prisoners column. From there on we couldn't catch up with them anymore because of danger of air attacks.

Q You mean to say you didn't see the prisoners column after you left Schmidmuehlen?

A I saw the prisoners again at this spot that had been designated for us as a rest place.

Q Where was that?

A. Several spots we had agreed about. They marched one day and rested.

Q How far behind the column were you between Hersbruck and Schmidmuehlen?

A A few meters behind them.

Q Did you see any prisoners fall out between Hersbruck and Schmidmuehlen?

A No.

Q Did any prisoners say they were too weak to continue?

A No, I didn't hear that.

Q Who were the prisoners you left at Schmidmuehlen?

A I don't know their names.

Q What kind of prisoners were they?

A I don't that either. They were just prisoners, I don't know what kind.

Q Why did you leave them behind in Schmidmuehlen?

(It is r-cross)

A I don't know. That was the sergeant's job.

Q How long were you on the way between Hersbruck and Schmidmühlen?

A I don't exactly anymore.

Q Did you inquire why these prisoners were left behind?

A No.

Q You left some prisoners behind at Saal, you say?

A Yes.

Q Why were these prisoners left behind?

A Because they were also too weak for the transport - that is, to walk. They were then transported by train.

Q Do you mean to say that the prisoners left back in Schmidmühlen were also too weak?

A Yes, they were also too weak.

Q I asked you a moment ago why they were left behind and you said you didn't know. What do you want to say about that?

A I must have misunderstood that.

Q How do you know they were too weak?

A They were taken there by vehicles. They couldn't keep up with the column anymore, and were loaded onto the vehicles.

Q Did they come over to the vehicles and ask to be carried over in the vehicles?

A The sergeant brought them back again and ordered us to put them on the car, to take them along.

Q I asked you a moment ago if any prisoners had complained they were too weak to continue the march and you said no. Now you tell us they came and asked to be carried. Can you explain that?

(Re-cross)

A They didn't complain to me.

Q Did you hear them complain?

A No, I didn't hear it.

Q Did you hear that they had complained?

A No. The sergeant brought them there and said on the car to take them along.

Q You don't know whether they were too weak or not, do you?

A They surely were too weak to walk.

Q Those who were at Saal were too weak to walk?

A They must have been too weak because they were transported by train.

Q Did you see any other prisoners who were too weak to walk, beside those who were taken on the wagon?

A No.

Q Did you see any prisoners sitting at the side of the road or standing at the side of the road, unable to continue?

A No.

Q Did you hear any shots?

A No.

Q Did you see any prisoners who had been shot?

A No.

Q When you were left behind, after Schmidmuehlen, did you come into contact with any other columns of the transport?

A No.

Q You were far behind the second column, weren't you?

A Yes.

Q Then you would catch up with the second column, wouldn't you?

A Yes, at the place where they took a rest.

Q Then you came back to the second column, didn't you pass some of the other columns that marched behind the second?

A No.

Q Did you see any of the other columns during the march?

A No.

Q Did you see any of them at the resting places?

A Prisoners? [illegible]

Q No, prisoners of the other column.

A No.

Q Who was in charge of the transport?

A 1st Sgt. Marr.

Q He was in charge of your column you stated. Who was in charge of the whole transport?

A The whole transport? I don't know.

Q What orders were you given when you left on this transport?

A No orders.

Q Were you armed?

A Yes.

Q Did you have ammunition?

A Yes.

Q What kind of arms did you carry?

A I had a rifle.

Q How much ammunition?

A 25 rounds.

Q Were you told what to do with your arms on this transport?

A No.

Q You were given no instructions of any character?

A No.

MR.BERKOWITZ: No further questions.
(Weiser-cross)

PRESIDENT: Redirect, Mr. Okay.

MR. MC KAY: Nothing further.

PRESIDENT: Dr. Wacker?

DR. WACKER: Thank you.

PRESIDENT: Questions by the court?

EXAMINATION BY COURT

QUESTIONS BY LAW MEMBER:

Q While you were on the detail Nuernberg, was anybody beaten to death, any prisoners?

A No.

Q It has been testified to by prosecution and defense, I think we all agree, that this column left on the 8th of April. Is that not correct?

A Yes.

Q That is settled, there isn't any question about that, that is right?

A 8th of April.

Q It has also been testified to by prosecution witness, that the column arrived in Dachau on the 25th of April. Is that correct?

A That I don't know exactly. It was the end of April but I don't know the exact date.

Q Do you know what date you left Dachau after you got there, or did you leave?

A The 28th or 29th or 30th of April, it seems to me.

Q How long were you in Dachau before you left?

A Two or three days I was here.

LAW MEMBER: That is all.

QUESTIONS BY PRESIDENT:

Q During this entire trip from Mersbruck to Dachau were you acting in the capacity of a guard of the baggage?

A Yes.

(Recess-court)

Q Just where was it that the baggage got behind the column? The court is referring to a considerable distance behind the column.

A That all depended how we got transportation from Schmidmuehlen on. The prisoners sometimes left the place of rest in the morning while we only left at noon.

Q You have testified that the baggage wagon stayed up with the column until you reached a certain point. Now, the court wants to know, what point that was.

A Those were the rest places where the prisoners took a break.

Q You have testified that after a certain place, the baggage wagons got well behind the column due to air attacks. Just what was that place?

A I don't know exactly anymore because that happened every day whenever the low flying aircraft would attack. We had to take cover.

Q Then the only places you saw sick along the road, sick inmates, were at Schmidmuehlen and Saal, is that correct?

A Yes.

Q Did you see any corpses along the road at any time?

A No.

Q Are you referring to the entire time of the evacuation march from Hersbruck to Dachau?

A I didn't see anyone during the whole time of the evacuation march.

Q You are referring to corpses?

A Yes, corpses. I didn't see any.

Q Were you armed during the course of this evacuation march?

A Yes.

Q Did you have ammunition?

A 25 rounds.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q Did you get enough to eat on that transport march?

A There was little to eat in this marching block.

Q When you were guarding this detail at Nuernberg how far away from the prisoners were you?

A 45 meters.

Q When you were guarding that detail did you look at the prisoners or did you just look in general at the terrain?

A I looked at the prisoners.

Q All the time ?

A Yes, of course. Well, sometimes you would turn around and you wouldn't look at them all the time.

Q Did you ever see a capo box a prisoner's ears?

A No.

Q Did you see what the prisoners had to eat on that transport march?

No, I didn't see it.

Q Did you ever see them eating anything?

A Yes, I saw that at the place where they rested.

Q Every rest place?

A Yes.

Q What did they eat at the three stops before you got to Dachau?

A Potatoes and whatever we could get.

Q Where did you get this food?

A That was bought there from the farmers.

Q What did you eat?

A Also whatever we got from the people.

(Heiser-court)

Q How much did you pay for that provender? Nuern-

A For ourselves?

Q Yes.

A Sometimes you got it for nothing, other times you had to pay for it.

Q Do you know Wurster?

A Yes.

Q Was he an SS man?

A Yes, he was a guard there in Hersbruck.

MR. COL. BURGEAN: No other questions.

QUESTIONS BY PRESIDENT:

Q Did he wear an SS uniform?

A That I can't remember anymore - what kind of uniform he was wearing.

Q You stated, in answer to a question by the Assistant Prosecutor, that you had never talked to the Defense Counsel. Did you fully understand that question?

A I don't understand it exactly. How do you mean conversed? I was called to the Defense Counsel.

Q In other words, you did talk to a Defense Counsel then, that is the case, is it not?

A Yes.

Q You either talked to Mr. McKay or Dr. Wacker before you came into court, before the session yesterday?

A Yes.

Q Sometime before you came into court yesterday?

A Yes, I talked to them.

Q Why did you answer "no" to that question?

A I didn't understand it.

Q You didn't understand the term, "conversed"?

A No.

Q Did you ever see Bowarts strike a prisoner at Nuernberg or anytime during the course of the evacuation march?

A No.

Q Did you see Schwarz strike a prisoner at any time during the course of the evacuation march?

A No.

Q Did you ever see any guard or capo strike a prisoner around Nuernberg, the Nuernberg station?

A No.

Q Are you sure about that, now?

A Yes.

Q Did you ever see a guard or a capo strike anybody during the course of the evacuation march?

A No.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. MAYLY:

Q You said something about some air attacks on the march. How many air attacks did your column have on the march?

A Every day it happened that low flying aircraft approached.

Q Did they shoot at the column?

A No.

Q Did they attack or not?

A They did not attack us. They approached and we had to take cover.

Q Then you did not have any air attacks, is that right?

A No.

Q You just saw some low flying airplanes, is that it?

A Yes.

(Recess-court)

Q They didn't attack the column?

A Didn't attack.

MT. COL. SAYLE: Nothing further.

PRESIDENT: Any further questions by members of the court? Apparently not. The court will take a half hour recess.

(Thereupon the court recessed at 1000 hours.)

Ta 583-11/8-DHC-1
FLOS-EBURG

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court who were present before are present now and all of the personnel of the prosecution are present except Mr. Pinter who is absent on business of the prosecution, all of the personnel of the defense are present with the exception of Dr. Engelhorn who is absent on business of the accused, and all of the accused are present with the exception of Olschewski, Oswalt, Lipinski, Mussfeldt, Nisbusch, Gieselman and Wurst who are sick and whose interests are being taken care of by counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Redirect?

DR. WACHTER: No further questions.

PRESIDENT: Prosecution.

FRANZ HEISER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

RECROSS-EXAMINATION

QUESTIONS BY MR. MERKOWITZ:

Q Mr. Heiser, were you a guard of that group of prisoners which did the work of shifting the cars?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTION BY DR. WACKER:

Q Was there a detail at all that shifted cars?

A I don't know.

DR. WACKER: Thank you.

PRESIDENT: Mr. McKay?

MR. McKAY: Nothing further.

EXAMINATION BY THE COURT

QUESTION BY THE PRESIDENT:

Q Did you see any prisoners at any time moving the cars by means of crowbars or pushing them by hand for a short distance only?

A No.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect, Mr. McKay?

MR. McKAY: Nothing further.

PRESIDENT: Dr. Wacker?

DR. WACKER: No.

PRESIDENT: Prosecution?

MR. BERKOWITZ: Nothing further.

PRESIDENT: The court understands the defense is finished with this witness?

MR. McKAY: That's correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: The defense calls as its next witness, Fritz Roller.

MR. McKAY: This witness is being called on behalf

of the accused 43 and 5.

DR. WACKER: I am examining this witness on behalf of the accused Schwarz for all the conditions as existed at the camp of Hersbruck at the evacuation march.

FRITZ ROLLER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Fritz Roller.

Q How old are you?

A 40 years old.

Q Are you married?

A Yes.

Q Do you have children?

A Yes.

Q Where do you live?

A Karlsruhe.

Q What is your profession?

A Carpenter.

Q Where are you at the present time?

A Bunker 1.

DR. WACKER: I should like to have the court explain to the witness his rights because he is a prisoner.

PRESIDENT: The court advises you at this time that if you should be asked any question that might tend to incriminate you that you have a right to ask the court to refrain from answering that particular question. Do you

understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Dr. Wacker.

Q Where were you at the end of 1944 and the beginning of 1945?

A In Camp Hersbruck.

Q Is Hersbruck an outcamp of Flossenburg?

A Yes.

Q When were you sent to Hersbruck?

A May 1944.

Q In what capacity?

A As carpenter, prisoner.

Q Where had you been before?

A Flossenburg.

Q How long were you in Flossenburg?

A At the beginning of March I was sent to Flossenburg from some outside camp of Flossenburg.

Q Where did you come from?

A Outcamp Nuernberg.

PRESIDENT: Just a minute, let's verify that date when he went to Flossenburg.

Q What year was that?

A 1944, 3rd of March.

Q What number did you wear as a prisoner?

A 2746.

Q What triangle did you wear?

A Green.

Q Who was camp commander in Hersbruck when you arrived

there in May 1944?

A At that time the camp of Hersbruck didn't exist at all. One-hundred-and-fifty of us were sent to Marburg and from there the beginning of June were sent to Hersbruck and took over the RAD camp there.

Q Who was camp commander of Hersbruck at that time?

A Captain Fuegner.

DR. WACKER: There must be a mistake in the spelling. I am just informed that it is Mappurg, M-a-p-p-u-r-g.

Q In what kind of a condition was the camp of Hersbruck in May 1944?

A At that time there were only a few barracks that formerly had housed the labor service and later on they brought some new barracks, they unloaded them. They were brought there by a detail of Dachauer.

Q How many prisoners were in Hersbruck in May 1944?

A We arrived there with 150 prisoners.

Q To how many did they gradually increase?

A Six weeks later 400 more prisoners arrived from Flossenburg. And that's the way it went on. Every four or five weeks transports would arrive from outcamps.

Q Do you know the highest number of prisoners at Hersbruck?

A No.

Q Can you give an estimation?

A Not quite 4,000.

Q How long did Fuegner stay in there as camp commander?

TA 588-11/8-UIC-6
FLOSSENBURG

A He was there for about two months.

Q Who came then?

A Captain Forster.

Do you know when Forster arrived?

A No.

Q Do you know when he left?

A Yes.

Q When was that?

A The beginning of December.

Q That year?

A 1944.

Q How long did Forster stay there approximately?

PRESIDENT: Just a minute, doctor, is he referring to Schwarz or Forster.

DR. WACKER: The man's name was Forster.

I should like to have you spell the name of the camp commander who was there before Schwarz.

A It was Forster, F-o-r-s-t-e-r.

PRESIDENT: Dr. Wacker, the court is not particularly interested in this previous camp commander.

DR. WACKER: I quite understand that but it is my duty as defense counsel for Schwarz to show the difference that existed under Forster and under Schwarz and the condition under which Schwarz took the camp over.

PRESIDENT: Court will be closed.

(Thereupon the court was closed at 1105 hours.)

***

(Whereupon the court was opened at 1115 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all of the personnel of the defense are present with the exception of Mr. Hall and Dr. Engelhorn who are absent on business of the accused, all of the accused are present who were present before the recess. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: All right, proceed, Dr. Wacker.

FRITZ ROLLER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY DR. WACKER (Continuing):

Q Please read the question.

(Whereupon the following question was read by the reporter:

"How long did Forster stay there approximately?")

A He must have been there approximately four months.

Q This goes for Forster, that he was there for several months?

A Yes.

Q And who got there after Forster did?

A Captain Schwarz.

Q Would you recognize Schwarz if you would see him today?

A Yes.

Q Please point him out.

A (Indicating) The fifth man.

DR. WACKER: The witness is pointing out 43 as being Schwarz.

PRESIDENT: Colonel Wilson?

DEFENSE COUNSEL: If it please the court, let the record show that Fiebusch, Nussfeldt, Oswalt and Wurst have resumed their place in the dock.

QUESTIONS BY DR. WACKER (Continuing):

Q In what condition was the camp when Schwarz arrived in Hersbruck as commando leader? I mean the construction of the camp.

DR. BERKOWITZ: If it please the court, we object to anything concerning the condition of the camp prior to Schwarz' arrival. It is immaterial and irrelevant.

DR. WACKER: Then I must object that any man who died in Hersbruck and that not under Schwarz will go to Schwarz' credit.

PRESIDENT: Objection overruled.

A It was very neglected.

Q What buildings were standing at that time?

A Blocks 1 to 14 were standing and 16 and 17 were the gymnasiums.

Q What did the roll call square look like?

A Wet and muddy, very dirty. The whole camp was all mud.

Q What building was there as a hospital?

A A small barracks.

Q What did Schwarz do when he took the camp over?

A Schwarz immediately built a new hospital. It consisted of two barracks.

Q Did he do anything else in the camp?

A He had the roll call square fixed up. He had them make running boards from block to block into the roll call square so that you could walk without touching the water or mud.

Q How many sick people were in the camp when Schwarz took the camp over, approximately?

A On the average, half of the people were sick.

Q What was their illness; what was the kind of disease?

A There were only three diseases in the camp.

Q What were these?

A Dysentery, collapse, and lice — scabies.

Q Did you have fleck fever there?

A Yes.

Q When?

A The end of 1944.

Q How many doctors were there in Hersbruck?

A That all depends what kind of doctors you mean.

Q All included, 33 doctors and prisoners' doctors?

A There were about six prisoners' doctors and a Luftwaffe captain by the name of Ehrlich.

Q Was that the same under Schwarz?

A Schwarz had to take a hand in everything because the camp had been neglected too much.

Q Did he succeed in getting more doctors?

A As far as I know another doctor arrived by the name of Geiger, an SS man.

Q What was the rate of death in Hersbruck?

A The rate of death at that time in Hersbruck was not high. The rate of death only was very high when the transport had arrived from Gross-Rosen because most of those people were very sick.

Q Mr. Roller, please give us some more exact dates, be more specific. How was the rate of death shortly before Schwarz arrived and then shortly after he had arrived?

MR. BERKOWITZ: If it please the court, that question is objected to because there has been no basis laid for the witness' knowledge of the facts. We have no record of what his position was or existed in the record or his competency to testify to that matter and in the absence of such evidence would merely be a conclusion on the part of the witness.

DR. WACKER: That is why I am asking whether he knows anything or not.

PRESIDENT: Objection overruled.

Q Please answer the question as to how high the rate of death was shortly before Schwarz took over and then after he had been there.

Ta 588-11/8-DHC-11
FLOSSENBURG

A I went out to work early in the morning and returned late at night but when I returned on Fridays or Saturdays I would see a truck there on the roll call square filled with corpses ready to be taken to the crematory.

Q About what time are you talking now?

A From November until December.

Q What year?

A 1944.

Q Was that before Schwarz arrived or after he had arrived?

A Before Schwarz arrived and when he was there.

Q You spoke about the return from work. What was your position in the camp?

A I was working outside the camp in the Saga Woerner factory.

Q What kind of a factory was that?

A Nail works.

Q How many prisoners worked there?

A That varied from 250 to 600.

Q How far was this factory from Herzbruck?

A Nine kilometers.

Q How did you get to your place of work?

A In the beginning we were taken there by trucks. Later on we were taken there by train. When Schwarz arrived the train transportation had been arranged for.

Q Were you taken there daily or weekly?

A Daily.

Q You spoke about a transport of prisoners from Gross-Rosen. Please explain that.

Ta 508-11/8-DHC-11
FLOSSENBURG

A I went out to work early in the morning and returned late at night but when I returned on Fridays or Saturdays I would see a truck there on the roll call square filled with corpses ready to be taken to the crematory.

Q About what time are you talking now?

A From November until December.

Q What year?

A 1944.

Q Was that before Schwarz arrived or after he had arrived?

A Before Schwarz arrived and when he was there.

Q You spoke about the return from work. What was your position in the camp?

A I was working outside the camp in the Saga Woerner factory.

Q What kind of a factory was that?

A Rail works.

Q How many prisoners worked there?

A That varied from 250 to 600.

Q How far was this factory from Hersbruck?

A Nine kilometers.

Q How did you get to your place of work?

A In the beginning we were taken there by trucks. Later on we were taken there by train. When Schwarz arrived the train transportation had been arranged for.

Q Were you taken there daily or weekly?

A Daily.

Q You spoke about a transport of prisoners from Gross-Rosen. Please explain that.

A At the end of February a large transport from Gross-Rosen arrived, approximately 2,500 prisoners.

Q Is Gross-Rosen an outcamp of Flossenburg?

A No. They were evacuated from Gross-Rosen.

Q What was the condition of prisoners arriving from Gross-Rosen?

A I wasn't there myself. I saw at night when we returned from work that these prisoners were unloaded. A freight train was standing there with open coal cars. They were full of blankets, straw, hand-carts, mess-kits, etc.

Q Did you see the prisoners themselves?

A I saw them in the camp then.

Q In what condition were these prisoners?

A You can just about imagine what these prisoners looked like after they had been on the way for sixteen days in open coal cars after they had brought thirty-nine dead to the camp. You can't get a true picture of what they looked like.

Q Did you talk to these prisoners?

A These prisoners were sent to various blocks, about 200 to each block, so that you could talk to them.

Well, did these prisoners say — what did the prisoners say about the food and how their health was taken care of during the transport?

MR. BERKOWITZ: Objected to as irrelevant. Anything that happened on the transport is irrelevant in this case.

DR. WACKER: When these prisoners who later on died in Hersbruck go to the credit of this transport I will not object.

PRESIDENT: Objection overruled.

MR. WACKER: Will you read the question please?

(Whereupon the question was read by the reporter.)

A I can't say anything about the transport much because the prisoners talked differently. Some were happy that they had arrived, others were so sick that after fourteen days we already had 250 dead.

MR. BERKOWITZ: If it please the court, I will ask that that answer be stricken from the record unless there is some evidence to show the basis of the witness' knowledge concerning the number of dead.

PRESIDENT: The motion will be held in abeyance for the time being. Doctor, the court desires more information on that particular matter.

Q How do you get the number of 250 dead?

A When I returned from work at night and handed in my roll call book to the prisoners clerk's office it was common knowledge in there.

Q You were not explicit as to what the prisoners said about the food in the transport and how their health was taken care of.

A I can't give any information as to that.

Q In which block were you in Hersbruck?

A Blocks 14, 7, and 4.

PRESIDENT: Now, doctor, the court is not entirely satisfied with the authority for the statement made by this particular witness. The court is referring to the motion of the prosecution which is still before the court. This witness has stated there were 250 dead, evidently as a result of the transport from Gross-Rosen. The court will give you an opportunity to clarify that particular statement from the

standpoint of its basis.

Q From whom did you get your information concerning the dead, referring to the Gross-Rosen transport?

A In the camp clerk's office.

Q Who was there

A There were several clerks.

Q What names did they have?

A Tuma, Otto, a Czech.

PRESIDENT: The previous motion of the prosecution to strike is not sustained. Proceed.

Q What was the number of sick people in Hersbruck after this transport from Gross-Rosen had arrived?

MR. BIRKOWITZ: The same objection, sir; unless something has shown the competency of the witness to know what his position in the camp was or his sources of knowledge I object to such information being elicited as incompetent and irrelevant.

PRESIDENT: The objection is sustained. The court will give you an opportunity to form a predicate for the question, Dr. Wacker.

Q Is there a possibility that you can tell us anything about the number of sick people after the Gross-Rosen transport has arrived in Hersbruck.

A I only know that Schwarz quarantined these people from three to four days, that is to say he didn't send them out to work at all and then he opened another hospital barrack and a convalescent block.

Q Was this quarantine there and also the convalescent

block before?

A No.

Q How was the food in the camp of Hersbruck? I want you to state how it was before Schwarz arrived and after Schwarz had arrived.

MR. BERKOWITZ: May it please the court, I object to any testimony concerning the period prior to Schwarz' arrival as being incompetent and irrelevant.

PRESIDENT: Mr. Berkowitz, the court feels that Schwarz was responsible for the conditions at Hersbruck as camp commander. In order to properly consider that matter the court will consider the conditions at Hersbruck at the time that Schwarz actually took command and just prior thereto in order to be able to make a comparison. Objection overruled.

DR. WACKER: Please read the question.

(Thereupon the question was read by the reporter.)

A The food became better after Schwarz had arrived. For one thing potatoes were peeled when they were cooked. Before that potatoes had been cut into four pieces with the peels on them and thrown into the soup and cooked with the soup, as they stated allegedly that was an order given them by the Reichs Food Ministry.

Q What was the food you received as prisoner?

A Half a liter of coffee in the morning, one liter of soup at the place of work at noon, in the evening 520 grams of bread, half a liter of coffee, margarine or sausage. Twice a week we received also a spoonful of marmalade.

PRESIDENT: Doctor, the court does not feel it is necessary for the witness to go too much into detail about that matter.

Q Was the food sufficient or was it not?

A For part of the details it was sufficient. Of course, for instance, the ones in the mining detail who worked in three shifts, they got enough. As a matter of fact they got an increase ration and the Nuernberg detail had plenty. For one thing; the food was cleaner. Formerly we received the food in old sauerkraut barrels. Later on, after Schwarz was there, we got them in thermos kettles so that the food was not sour when it arrived.

Can you say anything about whether Schwarz bothered to find out about the food or not?

A I was not in the camp during the day.

What was the treatments prisoners received, referring to beatings or maltreated under Forster and Schwarz

A As a matter of fact Schwarz prohibited that any prisoner could be touched or beaten or things of that sort. As a matter of fact he sent circulars to all work places once every month. They were posted on the bulletin board; that whoever would beat any prisoner or do anything of that sort that he would be punished with imprisonment up to six months, signed "Schwarz".

Did you at any time see that Schwarz beat a prisoner?

A No.

What relations did the prisoners have to Schwarz?

A The camp leader, Schwarz, was well liked contrary to the one who had been there prior to him.

Please give us a comparison of the conditions under Forster and under Schwarz but be very concise.

MR. BERKOWITZ: In line with the court's ruling, I object to the question unless it is confined to the period directly before Schwarz' arrival.

PRESIDENT: The objection is sustained. You understand, doctor, that the court had ruled before that the court would consider conditions in Hersbruck just prior to the arrival of Schwarz?

DR. WACKER: May I say a word?

PRESIDENT: Yes.

DR. WACKER: It is my purpose with this witness to prove that you could not change camp conditions from day to day and for that reason I have to briefly concern myself with these points.

MR. BERKOWITZ: If it please the court, I further object to the practice of putting words into the mouth of the witness by way of using the explanations of the court for that purpose.

PRESIDENT: Objection sustained. At the same time the court feels that there was no attempt on the part of Dr. Wacker along those particular lines but the doctor is cautioned to be careful about a situation of that nature. Proceed, Dr. Wacker.

QUESTIONS BY DR. WACKER (Continuing):

Q Did any beatings take place in the camp of Hersbruck in the period from 1944 since you were there until 1945?

A Yes.

Q During what period of time?

A Until Schwarz arrived.

Q And after Schwarz had arrived?

A Then it was prohibited.

Q Were there any air attacks in Hersbruck?

A At our place of work we worked under the danger of air attacks day after day.

Q I don't mean your place of work, I mean the camp of Hersbruck.

A The camp itself was not attacked, mainly not the prisoners enclosure.

Q Was there any attack near there?

A There were several in the vicinity.

Q Did anything special happen?

A Easter Sunday.

Q Explain what happened.

A Easter Sunday a special train with men on furlough arrived, it was attacked and they threw one bomb on it so that pieces of the rail and cars were thrown into the camp and, since all prisoners were at home Easter Sunday which usually did not happen, prisoners were taken out to help. Those were volunteers, about 200 to 300 of them. They cleaned up, collected the dead, wounded and sick and took them into the camp.

Q Do you know anything else that was unusual about this incident?

A Not about this incident.

Q Otherwise?

A Something that happened at our place of work that excited the prisoners all day long.

Q What was that?

A From March on there wasn't any train available any more to bring us back from our place of work so that the prisoners would have to walk. The same was for the mining detail. Instead of eight hours they had to work twelve or sixteen hours so that they were only relieved in the morning. For instance, when we worked ten or twelve hours at our place of work we would leave the camp at ten minutes to five, drive away from the station in Hersbruck at five minutes after five, then we would be at ten o'clock still in our place of work and then were forced to walk home and this was a march of approximately nine kilometers.

Q And why were these conditions?

A Planes.

MR. BERRITT: Objected to as being a conclusion. The witness wouldn't know why they had to work these long hours. It calls for a conclusion on his part.

PRESIDENT: That part of the answer are you referring to there?

MR. BERRITT: "Planes", he said "planes".

PRESIDENT: The objection is overruled.

QUESTIONS BY DR. WACKER (Continuing):

Q Did any executions take place at Hersbruck?

A Yes.

Q How many while Schwarz was there?

A I don't know that, how many.

A Something that happened at our place of work that excited the prisoners all day long.

Q What was that?

A From March on there wasn't any train available any more to bring us back from our place of work so that the prisoners would have to walk. The same was for the mining detail. Instead of eight hours they had to work twelve or sixteen hours so that they were only relieved in the morning. For instance, when we worked ten or twelve hours at our place of work we would leave the camp at ten minutes to five, drive away from the station in Hersbruck at five minutes after five, then we would be at ten o'clock still in our place of work and then were forced to walk home and this was a march of approximately nine kilometers.

Q And why were these conditions?

A Planes.

MR. BERWITZ: Objected to as being a conclusion. The witness wouldn't know why they had to work these long hours. It calls for a conclusion on his part.

PRESIDENT: What part of the answer are you referring to there?

MR. BERWITZ: "Planes", he said "planes".

PRESIDENT: The objection is overruled.

QUESTIONS BY DR. WACKER (Continuing):

Q Did any executions take place at Hersbruck?

A Yes.

Q How many while Schwarz was there?

A I don't know that, how many.

Q How many executions did you witness while Schwarz was there?

A None.

Q Did Schwarz do anything else unusual for the camp concerning buildings or any other thing?

A Before Schwarz was there the prisoners didn't have any shoes at their place of work or if they had shoes they were wooden shoes and if they got wet two or three times they would fall apart and when Schwarz arrived he had the stock of shoes, the SS stock of shoes, distributed to the prisoners. Outside of that we received clothes, new clothes, and underwear every fourteen days. Twice a month we could buy at the canteen, tobacco and things like that.

A Was that different before?

A Yes, but mainly as far as the clothing was concerned. We didn't have any underwear or clothes whatsoever. We got something new maybe every six months. The camp leader who was there before didn't bother about the prisoners at all.

Q Was it possible under Schwarz that a prisoner could go to him to file any complaints?

A Yes. I myself complained twice to Schwarz when he passed my place of work. Once a week he would check all the work details and it was up to any prisoner to file his complaint then because Schwarz would ask the single prisoners how they were treated, how the food was, if they had been beaten by any civilians, etc. Schwarz also did away with the punishment company that had existed in Hersbruck. Whenever reports had been made by the detail leaders or the dog-handlers these reports were handed into Schwarz. He would have the prisoner

come to the clerk's office at night but he didn't punish anyone for it. At previous times prisoners whenever a report had been made were sent to the punishment company or else received twenty-five or even fifty.

PRESIDENT: Court will adjourn until one-thirty this afternoon.

(Whereupon the court adjourned at 1200 hours.)

Camp Dachau, Germany
8 November 1946

AFTERNOON SESSION

(Thereupon the court re-convened at 1340 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Denson, who is absent on business of the prosecution, and Mr. Pinter, who is also absent on business of the prosecution; all the personnel of the defense are present, with the exception of Dr. Engelhorn, who is absent on business of the accused; all the accused are present, with the exception of Olschewski, Oswalt and Losch, who are sick in hospital and whose interests are being taken care of by counsel.

The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses, they will please leave the court room.

PRESIDENT: Continuation, Dr. Wacker.

FRITZ ROLLER, called as a witness by the defense, being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION CONTINUED

QUESTION BY DR. WACKER:

Q Mr. Roller, before the recess, you wanted to state something else and then the recess came. Do you still remember what you wanted to say?

A Not at the present time.

Q Then I should like to have the reporter read the last

sentence.

PRESIDENT: The reporter will read back the last question and answer before the recess.

(Thereupon the reporter read back the last question and answer as follows:

Question: "Was it possible under Schwartz that a prisoner could go to him to file any complaints?"
Answer: "Yes. I myself complained twice to Schwartz when he passed my place of work. Once a week he would check all the work details and it was up to any prisoner to file his complaint then because Schwartz would ask the single prisoners how they were treated, how the food was, if they had been beaten by any civilians, etc. Schwartz also did away with the punishment company that had existed in Herzbruck. Whenever reports had been made by the detail leaders or the dog-handlers these reports were handed in to Schwartz. He would have the prisoner come to the clerk's office at night but he didn't punish anyone for it. At previous times prisoners whenever a report had been made were sent to the punishment company or else received twenty-five or even fifty."

Q Do you want to add anything to that?

A No.

Q When was the camp of Herzbruck first evacuated?

A The Saturday after Easter the first prisoners were sent away.

Q Do you know what date and what year that was?

A 8 April 1945.

Q Did you take part in the evacuation march?

A I left on Thursday with marching column 4.

Q Were you a guard or how did you participate in the march?

A As a prisoner.

Q Were you dressed as a camp policeman?

A No.

Q You stated you had been in marching column 4. How large was that?

A We were a formation of 440 prisoners and approximately 50 guards.

Q Who was in charge of this column?

A I don't know the name of the first sergeant.

Q Do you know how many marching blocks they had?

A They had five marching blocks altogether, four blocks

were marching and one block remained, it included kitchen prisoners.

Q That was block 14?

A It was a block like the others and included juveniles and other prisoners.

Q How were the prisoners equipped when they started their march?

A Each prisoner had two blankets, his overcoat, new shoes, two suits and the food was sent afterwards.

Q Where did the column go to from Hersbruck?

A The first day, we marched 32 to 33 kilometres to Pfaffenhofen, marching column 4 that was.

Q Did you go on foot.

A Yes.

Q Were all prisoners able to march?

A Yes.

Q Didn't it happen that prisoners could not go on?

A Not at all during the first days, because before the beginning of the march they had determined those who could not go by foot and these people were sent away by train.

Q What kind of train were they sent away on?

A Regular train.

Q Where did the column go to from Pfaffenhofen?

A To Schmidmuehlen.

Q Did anything unusual happen from Pfaffenhofen to Schmidmuehlen?

A No.

Q Where did the column go to from Schmidmuehlen?

A In the direction of Regensburg.

Q Did anything happen there?

A Nothing unusual happened. It was said that a bridge was out down around Regensburg, so that we had to make a round-about, a

detour, to Saal on the Danube.

Q here did you go from Saal?

A In the direction of Dachau.

Q How long did the march last?

A We were on our way from the 12th to the 25th of April.

Q Were there any people incapable of marching on the way?

A Yes, there were always people who had sick feet and also who were weak physically.

Q What happened to those persons who were not capable of going on?

A We got a farmer's vehicle in Hersbruck and took that along to Schmidmuehlen. On this vehicle was all the baggage until we reached Schmidmuehlen. Nothing happened except 15 prisoners left in Pfaffenhofen. They were left because they got sick on the march.

Q What happened between Pfaffenhofen and Saal?

A Each village that we had passed through and stayed in overnight, we had left sick people back there with one guard.

Q What happened to those people not capable of marching and the sick people?

A They remained back in the respective villages with the guard.

Q Do you know what happened later on to these people?

A No.

Q Were the guards armed?

A Yes.

Q Did they fire?

A I, for instance, did not see anyone shot.

Q Did you see any dead people?

A I saw corpses from Schmidmuehlen to Saal on that road, and from Saal to Dachau.

Q Were those people who had been shot to death?

A No.

Q What kind of corpses were there?

A They were the physically weak and had been buried there near

the road.

Q Did an air attack take place during the march?

A Yes.

Q Where?

A Near Abensberg.

Q Describe the air raid and tell what happened?

Q Three marching columns were ahead of us and we were fourth. We started from Abensberg and were outside of Abensberg one kilometer where there was a barn and where the three columns had been resting overnight. During the march, there appeared a low-firing aircraft. While the firing aircraft was there, a Wehrmacht vehicle drove up. He wanted to reach the edge of the woods. The planes observed him and because of that the marching columns had about 40 wounded because they had been fired at by the plane's weapons.

Q Were there dead people?

A Approximately 10 dead and one SS guard.

Q Ten prisoners and one SS man?

A Yes.

Q What happened to those wounded people?

A I don't know that.

Q Did you see or hear that any of the prisoners were shot to death by the SS guards?

A Two or three days before we reached Dachau a prisoner was found who had been shot and wounded.

Q By whom had he been shot?

A He stated that he had been shot at by the dog handler with the big dog.

Q What else did he tell you?

A He couldn't say much because he was very weak, and the prisoners' doctor, that is, in marching column 4, determined that he would not live much longer.

Q Could it be determined in any way why the prisoner had been shot at?

(Roll-Direct)

A No.

Q What kind of food did you get during the evacuation march?

A For about six days we got warm food and bread from Hersbruck. Then that stopped. Each commando leader had a certificate stating that any farmer in whose vicinity we stayed overnight had to supply food for the prisoners.

Q Did you see Schwarz during the evacuation march?

A I saw Schwarz until Pfaffenhofen where he had accompanied the food transport, several times.

Q And thereafter you didn't see Schwarz any more?

A No.

DR. TACKER: No further questions.

PRESIDENT: Mr McKay.

MR. MCKAY: I am asking my questions in behalf of the accused No. 5.

QUESTIONS BY MR. MCKAY:

Q During the time you were in Hersbruck, Mr. Roller, did you ever come in contact with a prisoner named Bongarts?

A Yes.

Q What was the nature of your acquaintance with Mr. Bongarts?

A At the time when the transports arrived from Gross Rosen, all the blocks were over-crowded. I transferred from block 14 to block 7 and Bongarts was my bed neighbor in block 7.

Q How long did Bongarts continue to be your bed neighbor in block 7?

A Approximately ten days. And then this block was evacuated for the convalescent building.

Q How long did you continue to know Mr. Bongarts?

A I then again saw Bongarts Easter Sunday.

Q During the time that you were acquainted with Mr. Bongarts,

what duties did he have in Hersbruck?

A Bongarts had a detail in Nuernberg.

Q Were you able to determine from your association with other prisoners what Mr. Bongarts' reputation was with regard to treatment of prisoners on his detail?

A Unfortunately, I didn't hear anything from other prisoners. However, at 4:30 every morning the Nuernberg detail had to fall out on the roll call square. At that time I usually went down to the square and observed the Nuernberg detail there before it marched out.

MR. BERKOWITZ: Did the witness state 3:30 or 4:30?

INTERPRETER: 3:30.

Q Did anything unusual occur during the time when the Nuernberg detail would fall out in the morning?

A I only could determine whenever I observed this, that 200 or 300 prisoners on the square wanted to go along with this detail.

Q Did you ever hear any discussion among the prisoners as to why those 200 or 300 prisoners wanted to go along on this detail to Nuernberg?

A For one thing, those people received one litre of soup while the other prisoners only received coffee in the morning, and bread and sausage and margarine at noon and at night they also had soup.

Q Was there any other reason expressed for their wanting to go on the Nuernberg detail?

A Yes.

Q What was that?

A Mainly because they were able to organise tobacco and alcohol and food in the station in Nuernberg.

Q What do you mean when you say the word "organise"?

A There were in that station, freight transports which had been damaged by air attacks and people took along anything they found. As a matter of fact, they broke open other freight cars, not damaged, and stole out of them and took what they stole home with them.

Q Did you have any occasion to have to know what Mr. Bongarts' reputation was in the camp with regard to treatment of prisoners?

A As I said, the prisoners were fighting for the detail. They

were fighting each other in the morning on the roll call square, so that they could go along.

Q Did you ever observe Mr. Bongartz when he was in the main camp of Hersbruck?

A I only watched him on Easter Sunday.

Q Will you explain what you heard regarding Mr. Bongartz' conduct in the camp itself from among the other prisoners?

A He was very seldom in the camp, and the only time he was in the camp was Easter Sunday; otherwise he was outside working all the time, work days and Sundays.

Q Do you think you could recognize Mr. Bongartz if you saw him again?

A Yes.

Q Will you look at the man seated behind me and see if you can recognize the man you knew of as Mr. Bongartz. Step down and point him out.

A The second row, last man, #5 (indicating).

MR. MCKAY: Let the record indicate the witness recognized the accused wearing number 5 as Bongartz. You may cross-examine.

PRESIDENT: Cross examination, Mr. Berkowitz.

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Roller, what was your position in the camp?

A I was sent to Hersbruck as a carpenter and later on took over the work detail Sage and Woerner as capo.

Q How many prisoners worked under you?

A At first, I had 250 prisoners, but then I had more or less, it all depending on how many were sick and how the people on the details were distributed.

Q What was the maximum number of prisoners you had?

A For five days I had 600.

Q How many under capos did you have?

A Twenty-eight.

Q What were you building?

A Railroad construction.

Q During the time that Schwarz was commandant of the camp, did you ever see any of your capos beat prisoners?

A No.

Q You are under oath, Mr. Roller, will you remember that?

A Yes.

Q I will ask you that question again. During the time that Schwarz was commandant of the camp, did you ever see any of your capos beat prisoners?

A I didn't see anyone from my detail.

Q When did this transport from Gross Rosen come in?

A At the end of February 1945.

Q From whom did you get your information that 250 prisoners died?

A From Otto Tuma.

Q When did you get that information?

A When I handed in my labor book in the evening in the clerk's office.

Q How many days after the arrival of these prisoners did you get that information?

A Fourteen days.

Q Had you ever heard anything prior to that time that any of them had died?

A No, I only heard about it because I complained in the orderly room that the factory was complaining that there were too few people at the place of work.

Q Did you think they all died in one day?

A No.

Q Do you know when they died?

A Within fourteen days.

Q Did you see any records concerning that?

A No.

Q Do you know of anybody who was reported to Schwarz for having beaten prisoners?

A No.

Q Do you know whether Schwarz punished anybody for having beaten prisoners?

A No.

Q All he did was to get out an order that nobody was to beat prisoners, is that correct?

A Yes.

Q Do you know whether that was obeyed?

A I only know about a mining master who was summoned to Hersbruck because he had beaten prisoners.

Q What do you mean summoned to Hersbruck?

A He was summoned by the SS to Hersbruck.

Q Where from?

A From a construction firm in Hersbruck.

Q Was he an SS man?

A No, a civilian.

Q What was his name?

A At the present time, I cannot remember his name.

Q What happened to him?

A He received the warning.

Q From whom?

A From the SS staff which had summoned him.

Q Do you know of any prisoners who complained to Schwarz?

A Yes.

Q What did they complain about?

A About the treatment, about food, that they had bad shoes and

(Roller-Cross)

and clothing.

Q What treatment did they complain about?

A About the food, that they had very little time to eat, because of the working hours.

Q Were the working hours reduced?

A Working hours were not designated by the camp commander but by the leaders' staff.

Q Will you answer my question please?

A What question?

Q Were the working hours reduced?

A Working hours were designated by the leaders' staff and Schwarz was not able to do anything about that or act against the leaders' staff.

Q Did he tell you that?

A We knew that all work details, working hours, were designated by the leaders' staff. They designated the type of work and they made reports and sent them into the camp.

Q You mean the main office in Flessenburg?

A No.

Q Where then?

A The leaders' staff was in Happburg. There were two first lieutenants and one captain, SS officers. They had all this terrain, and all these factories were under them.

Q Were the hours reduced?

A For about two months we worked for 8 hours, but not for reasons of complaint but because we didn't have enough light.

Q What other work was being done by Herstruck details?

A Mining details, road construction, railroad construction, barracks construction and finally repair work in Nuernberg.

(Roll-r-Cross)

Q What was being mined by the mining details?

A They were driving tunnels into the mountains, five of them.

Q Did you have an opportunity to observe this work?

A Yes.

Q Was it work of a difficult character?

A It was the easiest job there was because prisoners tried all the time to get on this detail. They only worked eight hours and the other details worked ten hours.

Q The other details were more difficult in character than the mining details, is that correct?

A Yes.

Q What time did your detail get up in the morning?

A 4:30.

Q What time would they get to bed at night?

A That varied.

Q What time would they get back from work?

A That all depended on who would get preference for the train. When the Nuernberg finished first, they would get back home first, then the train would return to where we were and bring us home, so that sometimes the Nuernberg detail got home one hour before we got home or else we would get home one hour before they would.

Q What time would the earlier detail get home?

A The working hours were from 6:00 in the morning until 6:00 at night, so that the first detail could have been in the camp about 6:45.

Q And the second detail got back at 7:45 in the evening, is that correct?

A If nothing happened.

Q If nothing happened, what time would they get back?

A Then it was sometimes 10:00 o'clock.

Q And the men would have to get up at 3:30 or 4:30 the next morning, is that correct?

A Yes.

Q Do you know what food was received by commandos, other than your own?

A I only know that that the Nuernberg detail got more. At noon time, they had margarine, bread and sausage and at night they had soup again.

Q Did they get less than that on your detail?

A Yes.

Q How did you find that many prisoners of your detail became ill?

A What do you mean, many?

Q Well, what percentage of your detail was able to report for work every day?

A There were about 8 to 10 sick every day.

Q Did you find that many who had been on your detail were unable to continue with the work?

A There were people on the detail who could not go on with the work. They were weak and had to be taken to the barracks, and if they were sick in the morning they would be sent back by train.

Q Did you find that any of the prisoners who worked for you were unable to continue to work and dropped out of the detail?

A As I said, about 8 to 10 a day.

Q I am not talking about the people who dropped out. Did you, for instance, have people on your detail the first of the month who were unable to be there on the 10th of the month?

A They were then sent to the hospital.

Q Did you find many cases of that character?

A As I said, eight or ten a day.

(Roller-Gross)

Q How long would a man last on your detail?

A There were people who had been out there all year.

Q Were they capos?

A No.

Q How long could the average worker last on your detail?

A You mean average worker. If there was a construction worker, he would keep on working all year; but a person not used to such work, he could not take it as easily as a construction worker.

Q What happened to him?

A If he could not do it, he was sent back to the camp or to the hospital and if he still was unable to perform this work, then he was sent to Flossenburg to be in the potato peelers' detail or the mending detail, or whatever it was.

Q Do you know how long the average prisoner who came to Hersbruck remaind there before he arrived in the hospital?

A No.

Q Did you see what Bongartz did on Easter Sunday.

A On Easter Sunday, he helped to bring these people wounded by the air attack into the camp.

Q What time was the attack?

A In the morning at 8:00 o'clock.

Q Did you see what he did the rest of the day?

A I only know he was detailed to shovel a mass grave for the dead and the limbs which had been thrown around.

Q Did you know what Bongartz did on the other Sundays when he was in the camp?

A As far as I can remember, he wasn't in the camp at all.

Q Did you see what he did during the two Sundays in March when he was in the camp?

MR. MCKAY: I object to this as going behond the scope of

(Roller-Cross)

should
Flossenbürg

direct examination. This witness testified that Bonhoeffer was not there and also the question becomes argumentative, the prosecutor is trying to put facts in this witness' mouth which are not there.

MR. BERKOWITZ: If it please the court, I am simply trying to get information and am not endeavoring to be argumentative. If the witness does not know, he can say so. I believe the answer should come from the witness.

PRESIDENT: Objection sustained.

Q What did the dog handlers do?

A They wore the arm band, factory, security, and checked the work.

Q What did they use the dogs for?

A In case of a prisoner who had escaped, so that they could look for him.

Q Did they have many escapes?

A I had seven in my place of work.

Q What happened to the people who escaped?

A Most of them they didn't catch.

Q What happened to those they did catch?

A They were sent back to the camp and received a red point and were sent to the punishment company.

Q What did they do in that company?

A They had to work inside; they were not allowed to go on outside details again, and whenever the next transport went to Flossenburg, they went on this transport and passed around in Flossenburg.

Q Do you know what happened to them in Flossenburg?

A They worked inside the camp, according to their profession.

Q Do you know of any people who tried to escape and were shot?

A I didn't see that.

Q Did you hear about it?

A No.

Q Did you inquire about it?

A No.

Q Were there any camp policemen on this camp evacuation march?

A What is that, camp police?

Q Answer my question please.

PRESIDENT: Just a moment. The witness has stated he does not understand the question. Either clarify the question or ask another one.

MR. BERAWITZ: I will withdraw the question.

Q Were there any prisoners who were appointed as camp police and appointed as guards on the transport?

A Kerchback guards were only SS men.

Q What did the capos do on the transport?

A They were prisoners just like all the other prisoners.

Q What did you do on the transport?

A Nothing.

Q Did you see Longarts on the transport?

A Longarts was in another marching column than I was.

Q Do you know whether he was on any duties on the transport?

A I cannot say.

Q Do you know whether any of the prisoners, any of the capos were given any authority or duties on the transport?

A I only know that the block elderts were responsible for each marching column. They always combined two columns, and they were responsible for those two columns staying together and reaching the final destination.

Q What were the capos responsible for?

A They didn't have anything to say in the camp; they just handed out the work at the place of work, and that is all.

(Roller-Gross)

Q Which blocks were in your camp?

A Block 4 and block 5.

Q What day did you come to Pfaffenhofen?

A The 10th of April.

Q That was the second day of the march was it not?

A The first day because we left on Tuesday. We left the morning of the 10th and arrived in Pfaffenhofen the evening of the 10th.

Q Then you did not see Schwarz after the first day?

A Yes, we remained in Pfaffenhofen for five days.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place at 1430 hours and reconvened at 1440 hours.)

PRESIDENT: The court will come to order. Mr. Berkowitz.

Q You say you remained five days at Pfaffenhofen?

A Yes.

Q Where were you quartered in Pfaffenhofen?

A At the station.

Q How many prisoners were there?

A 440.

Q Where were the other columns quartered?

A There were 440 of us in marching column 4. The others were in other villages.

Q When you left Pfaffenhofen, did you join the other columns or march behind the other columns?

A They marched before us and after us.

Q All four columns marched in the same transport?

A No, each marching block marched by itself. They were 5 or 10 kilometres ahead of us and the rest 5 or 10 kilometres behind us.

Q Did all four columns follow the same route?

A Yes.

Q Did all columns arrive at Dachau at approximately the same time?

A The last marching column didn't arrive at all in Dachau.

Q Did that block leave Hersbruck?

A As far as I know, it left.

Q When you went away, that block was still in Hersbruck,

A Yes.

Q Did you see that block at any point along the march?

A No.

Q Going back to Hersbruck, did you hear of the case of the Russian, who, after the air attack, ate the hand of a victim of that attack?

A Monday morning, this prisoner was running along the roll call square. He had a woman's hand in his hand and took a bite in it and said, "meat".

Q Do you know what happened to that prisoner?

A This prisoner was arrested in the bunker and marched with our marching column, marching column 4 to Waffenhofen.

Q Do you know his name?

A No.

Q You stated you saw no executions at Hersbruck while Schwärz was commandant. Did you hear of any?

A No.

Q You stated that there was one man who was shot three days before you arrived at Dachau. How many others do you know of who were shot, or shot at?

A None, except of course the forty during the air raid.

Q Were there any prisoners who were shot or shot at who were unable to continue the march?

A I don't know.

(Roller-Cross)

Q What do you mean, you don't know?

A No one from our marching column was shot or else shot to death.

Q Did you hear of anybody from any other columns being shot or shot at?

A We only found the one man. That was three marching days away from Dachau.

Q Did you examine that prisoner?

A Our doctor was with him.

Q Did he have a shot in him?

A Yes.

Q Didn't you state in the court of an interrogation yesterday that inmates who were unable to continue the march were shot at and injured?

PRESIDENT: Just a moment. You are referring to yesterday as far as the witness is concerned?

MR. BERKOWITZ: Yes, sir.

PRESIDENT: You mean during the time this witness was on the stand?

MR. BERKOWITZ: No, sir, during the course of interrogation.

(Witness answering.)

A I only said that there was one man who had been shot at and that was three marching days away from Dachau. When we were in the village where the marching column ahead of us stayed overnight, when we came there, we found this man.

Q Did you not in the course of that interrogation yesterday, say several inmates, unable to continue the march, were shot at and injured?

A There was just the one who had been shot at.

Q Did you or did you not say there were more?

A I cannot say more. There was only the one. The other

prisoners were sick or they had bad feet.

Q I am asking you whether in the course of the interrogation yesterday you did not say more were shot at an injured?

A I did not testify under oath yesterday; to-day, I am testifying under oath.

Q What did you say when you were not under oath?

A I said whenever we made quarters for the night, we found prisoners left by there by the marching column who had marched through there previously; then I said we found this prisoner who had been shot at and was bleeding in the back from the shot.

Q Did you not state there were more than one prisoner who was shot?

A There was only one prisoner who had been shot at.

DR. WACKER: I should like to object to this line of questioning because I do not know whether this witness has been advised by the prosecution as to whether he has come as a witness or whether he is here to be questioned in his own case. As the witness has stated just now, he already differentiates between testifying under oath and testifying not under oath.

MR. BERKOWITZ: I do not know whether Dr. Wacker is putting this in the form of an objection, but if he is, the objection is out of order because the defense has agreed to turn over to us the witness before they take the stand, for interrogation; secondly, it is immaterial as to what he thought he was testifying about. All I am trying to get at is what he was talking about at the time he was interrogated.

PRESIDENT: The objection of Dr. Wacker is sustained.

Q How many dead did you see between Schmidmuehlen and Dachau?

A Five or six daily.

(Roller-Cross)

Q Did you examine these corpses?

A No.

Q You do not know then whether they were shot or had just collapsed?

A One could see they had not been shot but had collapsed because of physical weakness.

Q How could you see that?

A Because the whole marching column passed by them.

Q Which marching column?

A Four

Q Could you tell by marching past them whether they had been shot or had collapsed?

A I think if they had been shot to death, one would have seen blood. They were in the center of the road.

Q The bodies were lying in the center of the road, is that correct?

A Yes.

Q What did the guards do as they passed these corpses?

A Prisoners had been detailed to carry these corpses to the side of the road and there was a detail behind us which had shovels, picks and spades and this detail buried these dead people.

Q Was this detail attached to your column?

A No, marching column 3.

Q They were walking behind your column, is that correct?

A No, ahead of us.

Q Did the burying detail bury the bodies before you came up?

A No, we marched passed them while they buried them, while they dug the hole.

Q I thought you said you saw the bodies in the middle of the street?

A Whenever a prisoner collapsed, he would fall down and wherever he

(Roller-Cross)

collapsed, the detail would take him to the side of the road, dig a hole and hide him.

Q Was this detail with your column?

A Each marching column had its recov ry detail.

Q What do you mean, recovery detail?

A Those who dug in corpses.

Q How many men from your column were buried?

A I only know five.

Q Were they shot at?

A No.

Q And the six or seven daily were from the previous column?

A Yes, block 3.

Q Were those bodies from column 3 when you passed them, in the middle of the street or where?

MR. MCKAY: That question is obj cted to as being repetitious.

MR. BURKOWITZ: There has been conflict, -- at one time he says in the middle of the street and the next time he says they were being buried. I would like to clear it up.

PRESIDENT: The objection is overruled.

(WITNESS ANSWERING.)

A When I say middle of the road, I am talking about a country road in the woods.

Q Will you answer the question please.

PRESIDENT: Repeat the question reporter.

(Thereupon the reporter repeated the question.)

A The recovery detail took these corpses to the side of the road, right to the edge of the road where it was, and dug the hole in the earth and buried them.

(Roller-Cross)

Translated by
Sherrill
Floss

Q Where were the bodies when you passed them?

A How do you mean, where were the corpses?

Q Where were the corpses, were they at the edge of the road when you passed them?

A On the road.

Q Were they on the side, in the ditch, or in the middle of the road?

A Next to the ditch or on the road.

Q There were bodies which were left from column 3?

A Yes.

Q And the burying detail came from column 3?

A Yes. They were 15 kilometres behind their own column in front.

Q In front of their own column, is that correct?

A The marching column.

Q You testified block 3 marched 15 kilometres ahead of you, did you not?

A They were only 15 or 20 kilometres whenever they stayed overnight.

Q How far ahead of you were they when they were marching?

A It always varied. We would be ahead of us and then we would be behind them. For they left at seven in the morning, we might leave at eight. Whenever we took a rest they might pass us and vice versa. There are also two quarters for the night, where we stayed overnight, unless we were under the open sky when we were together, all of us.

Q Then the third column did not march 15 kilometers ahead of you, is that correct?

A In the end they stayed with us. Only they marched off one or two hours before we did. It had been handled that way, so the marching columns marched separately.

Q Who assigned the burying details to the various groups?

A The detail leader.

Q Who? Will you mention his name please?

A Each marching column had a different detail leader. A technical sergeant or a first sergeant.

Q Who ordered that each column have a burial detail?

A No order was given; that came up automatically.

Q Why?

A You could not leave them lying on the road; you could not take them along; they would have spread diseases.

Q You could not leave what lying on the road?

INTERPRETER: I omitted that, -- "the corpses".

MR. HERKOWITZ: That is all.

PRESIDENT: The court will take a half hour's recess.

(Thereupon the court recessed at 1500 hours.)

Tk 590
AB-1
11/8/46
Flossenburg
at 3:30

(Whereupon the court reconvened at 1530 hours)

PRESIDENT: The Court will come to order.

MR. BERKOWITZ: May the record show that all members of the court are present, all members of the prosecution except Lt. Colonel Denson and Mr. Pinter, who are absent on business of the prosecution; the status of the defense staff remains the same as before the recess, and likewise as to the accused. The witness is reminded that he is still under oath, and if there are any spectators in the courtroom who expect to be called as witnesses they will please leave.

(Whereupon Fritz Roller resumed the witness stand)

PRESIDENT: Redirect examination.

DR. WACKER: No further questions.

PRESIDENT: Mr. McKay.

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Mr. Roller, you indicated in your cross examination that you were interrogated yesterday by some of the prosecution's staff. Do you know who conducted that interrogation?

A Yes.

Q Who was it?

A Dr. Leiss.

Q That was a German?

A Yes.

Q Prior to your interrogation, was any mention made of the fact that you were a possible accused in the Flossenburg case?

MR. BERKOWITZ: Objected to as immaterial and irrelevant.

PRESIDENT: Now, just a moment — caution this witness about remaining silent at this time. Didn't he give an answer?

COURT INTERPRETER: No, sir.

MR. BERKOWITZ: Objected to as immaterial and irrelevant — I'll withdraw the objection, sir.

PRESIDENT: Proceed, Mr. McKay.

MR. McKAY: Will you read the question, again, Miss reporter?

(Last question was read by the reporter)

A No.

MR. McKAY: That is all.

PRESIDENT: Mr. Berkowitz.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Moller, before you took the stand, were you informed by the defense counsel that you were a possible defendant in another possible Flossenburg case?

A Yes.

MR. BERKOWITZ: No other questions.

PRESIDENT: The court will take a short recess in place.

(Whereupon a recess in place was taken at 1540 hours until 1542 hours)

PRESIDENT: The court will come to order. Dr. Wacker.

DR. WACKER: I should like to ask the court to instruct the prosecution that if any defense witness should be questioned by the prosecution, that he should be reminded of his rights as a prisoner, if he is a prisoner, and that he should be informed as to whether he would be questioned as an accused or witness, since he is a prisoner.

Tk-590

AB-3

MR. BERKOWITZ: May it please the court, I believe a request like that is out of order. The prosecution staff knows exactly the status of these people and knows what procedure to follow.

DR. WACKER: It is clear that the prosecution knows that, but a man who is taken from the bunker here, a prisoner taken from the bunker, does not know it. He is a prisoner when he is being interrogated. He does not know whether he has to defend himself or for what purpose he is being interrogated.

MR. BERKOWITZ: May it please the court, it is quite evident that the witness is properly instructed concerning that by the defense, as evidenced by the answers of this witness.

PRESIDENT: Mr. Berkowitz, the court would like to know the status of the particular individual that interviewed this witness.

MR. BERKOWITZ: Requests have been made — does the court want this in open court?

PRESIDENT: Yes. The court is still open.

MR. BERKOWITZ: The prosecution has made repeated requests at the front office for an interrogator to be assigned in this section but with no avail. Since last week an agreement was made with the defense concerning the interrogation of defense witnesses or prosecution witnesses prior to their appearance on the stand —

PRESIDENT: The court is fully familiar with that agreement between the prosecution and the defense, and the court feels that that particular procedure will speed matters, but the court wants to find out, at the present time, the status of that individual who interviewed this witness.

Tu-590

AB-4

MR. BERKOWITZ: The status of that individual is, that he is a German interrogator who is assigned to that section, the counsel section.

PRESIDENT: Is he a prisoner at the present time?

MR. BERKOWITZ: He is not in the bunker. I don't know his status.

PRESIDENT: What is his name?

MR. BERKOWITZ: Dr. Leiss. He lives over in the witness barracks. I don't know exactly what his status is or what his history is.

PRESIDENT: You cannot advise the court definitely, at the present time, just what his status is?

MR. BERKOWITZ: Colonel Dawson knows him much better than I do. I doubt very much whether he is a prisoner. I know he went down to Austria on the Mauthausen case.

DR. WACKER: It is known to me that Dr. Leiss has been working for the prosecution for several months; that he has also prepared the Dachau and Mauthausen trials — and against this person as such there is no objection. But the thing I would like to bring out is that the witness has, whenever he is called to the stand, will not be interviewed by the prosecution or, if so, should be advised as to the status of the interrogation, as to whether he is going to be interviewed as an accused or as a witness or just what.

MR. BERKOWITZ: If it please the court, it is quite apparent from what the witness said that the defense has amply taken care of that.

PRESIDENT: The court will be closed.

(Whereupon at 1550 hours the court was closed.)

(Whereupon at 1602 hours court was opened)

Tk-590

AB-5

PRESIDENT: Court is open.

MR. BERKOWITZ: May it please the court, may the record show that the personnel of the court, the prosecution, defense and accused remain the same as at the time of the last recess, at the time of the last reconvening of the court. The witness is reminded that he is still under oath and if there are any spectators in the courtroom who expect to be called as witnesses, they will please leave.

(Whereupon Fritz Moller resumed the witness stand)

PRESIDENT: The court directs, Mr. Prosecutor, that these preliminary interrogations conducted by the prosecution — by preliminary interrogations the court is referring to the time previous to the actual time the witness takes the stand — will be confined strictly to the present Flossenburg trial.

MR. BERKOWITZ: May it please the court, that has been the practice and it will be continued.

PRESIDENT: Any further questions by the defense? The court?

EXAMINATION BY THE COURT

QUESTIONS BY MAJOR LANHAM:

Q I wanted to ask you about the Russian who ran across the lot, you said, with a woman's hand in his mouth. Could that be because he was so very hungry or had he become temporarily insane?

A I don't think he was hungry. I think he had gone, had gone crazy.

Q Well, were there other pieces of flesh flying around there as well as the woman's hand?

A Yes, there were many of them lying around outside of the camp.

Q Was there anybody else besides this one Russian who grabbed

TM-590

AB-6

up any piece of flesh and started to eat it?

A No.

QUESTIONS BY PRESIDENT:

Q Can you tell the court just when Schwarz assumed command at Hersbruck?

A Beginning of December '44.

Q Now, just what were your duties on the transport, evacuation transport?

A None.

Q You mean to say you didn't have any assigned duty whatsoever?

A No.

Q You simply marched along, is that the case?

A Yes.

Q You had no responsibility?

A No.

Q Now, you testified to the effect that this one man had been shot by a big dog handler. Just whom were you referring to?

A Corporal Hamm. He hanged himself, in Hattemberg.

Q Will you verify the spelling of that name?

A H-a-m-m, I believe.

Q Now, during the course of this transport, did you observe any mistreatment of prisoners whatsoever?

A No.

Q You saw no prisoners struck or mistreated in anyway whatsoever, is that the idea?

A Not mistreated.

Q Well, did you see any prisoners struck?

A That was not available. For instance, in Pfaffenhofen, people would put their instruments into their mess kits and throw them among the people and the people who had their clothes on were not very appreciative about that fact and beat them up.

Q That was a case of one prisoner beating up another prisoner, is that the idea?

A Yes.

PRESIDENT: Any further questions by any member of the Court? Colonel Burcham?

QUESTIONS BY COLONEL BURCHAM:

Q Earlier in the interrogation here you answered a question something to this effect: That no capo should beat in your detail, is that right?

A He was not allowed to hit. Orders existed that no one was allowed to beat.

Q Did you ever see a capo in any other detail strike prisoners?

A I didn't have anything to do with other details.

Q Did you ever see a capo in another detail hit a prisoner?

A As I said, I didn't have anything to do with the other details, and I never got in touch with them.

PRESIDENT: Any further questions by any member of the court? Colonel Skielvig?

QUESTIONS BY LT. COLONEL SKIELVIG:

Q At one time today you testified that the first prisoners left on a transport the first Saturday after Easter, then later you testified that you left on the 10th of April. Now, can you give any more explanation as to that?

A On Saturday noon orders came to the work places that all details had to move back to camp. We marched back to the camp and had hardly returned to the camp when orders came through that all sick people from all details, and all of them had not returned at that time, were to be sent to Dachau. We observed the prisoners who could walk pass Block 4, and right next to Block 4 there was a gate that led out

into the railroad station so that they could get into the trains. And those unable to walk were carried on stretchers. They all had their blankets, a piece of bread and margarine.

Q Then your actual blocks moved out on Tuesday morning, is that correct?

A The marching column in which I was left on Tuesday. It should have left on Monday but we left on Tuesday.

Q How many columns left on Monday?

A At any rate the three other marching blocks, Columns 1, 2, and 3 left ahead of us.

Q Then at what time did you leave?

A In the morning; 8:00 o'clock we left.

COLONEL SKIELVIG: No further questions.

PRESIDENT: Any further questions by any member of the court? Apparently not. Redirect examination.

DR. WACKER: Nothing further.

MR. McKAY: Nothing further, sir.

PRESIDENT: The prosecution?

MR. BERKOWITZ: Nothing further.

PRESIDENT: The court understands the defense is finished with this witness?

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom)

DR. WACKER: The defense calls as its next witness Willi Schlagintweit, for the accused Schwarz.

COLONEL WILSON: May I have permission of the court to take the accused Weilbach into my office for consultation?

PRESIDENT: Just a minute, Colonel Wilson. The court will take a short recess.

(Whereupon at 1615 the Court recessed)

(Whereupon at 1617 Court reconvened)

PRESIDENT: The court will come to order.

WILLI SCHLAGINTWEIT, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q I have to add that the witness is testifying on behalf of the accused No. 5, also. What is your full name?

A Willi Schlagintweit.

Q How old are you?

A 31 years old.

Q Married?

A No.

Q What is your profession?

A Merchant.

Q Where do you live?

A Munich.

Q Mr. Schlagintweit, please answer after the question has been translated. Where do you stay, at the present time?

A In Camp Dachau.

Q Are you a prisoner here?

A Yes.

PRESIDENT: The court desires to advise the witness at the present time that if he should be asked any question that might tend to incriminate hi , that he has a right to ask the court to refrain from answering that particular question. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Dr. Wacker.

10 Q Mr. Schlagintweit, were you ever in Hersbruck?

A Yes.

Q From when until when?

A From approximately the middle of December 1944 until about the 12th of April 1945 — until we marched away.

Q And what were you in Hersbruck?

A I was sent as block eldest from Flossenburg to Hersbruck.

Q What triangle did you wear?

A A green triangle.

Q Who was the commander of the outcamp of Hersbruck when you arrived there?

A Mr. Schwarz.

Q Would you recognize Schwarz if you would see him again?

A Yes.

Q Please look and see if you can identify him.

A (pointing) The third man.

(Whereupon accused No. 43 stands — sits down)

DR. WACKER: The witness has identified No. 43 as the accused Schwarz.

Q Do you know how long Schwarz had been the commander of Hersbruck when you arrived?

A I did not know about it, but I found out later that he had arrived in approximately the same time that I had arrived.

Q In which block were you in Hersbruck?

A Block 5.

Q In what capacity were you there?

A As block eldest, but I took charge later on — I took charge as block eldest the middle of January.

Q Please describe, briefly, conditions as they existed in Hersbruck pertaining to the food situation?

Tk-590

11

A I have to state here that I had been in other camps previously and that the food had been very bad there. I had served a sentence and was released the 10th of December 1942. I was then sent to Mauthausen and then from Mauthausen to Fuessen, an outcamp of Mauthausen. I had been in various camps and the food was very bad and I must say I was very surprised when I arrived in Hersbruck to find that the food was so good there. When I was released from the prison and sent to the concentration camp, I weighed 167 pounds and two weeks later weighed 202 pounds, approximately eight weeks later.

PRESIDENT: Just have the witness avoid details, Dr. Wacker.

Q How were prisoners treated in Hersbruck?

A The prisoners had to keep order just like it was at any other place.

Q Were there any beatings?

A I don't know of any beatings. I know that people off and on got slaps on the ear, but no further beatings.

Q Did you see whether Schwarz ever beat a prisoner?

A I can definitely assure that I never saw Mr. Schwarz beat anyone.

Q Were there any directives issued to you as block eldest pertaining to the beatings?

MR. BERKOWITZ: Object to that as leading.

PRESIDENT: The objection is sustained.

Q Did Schwarz take any kind of position towards beating cases?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: The objection is sustained. Doctor, the court simply suggests that you use the phraseology, "Explain to the court so and so — ."

Th-590

12

Q Explain to the court whether any directives existed pertaining to mistreatment of prisoners?

A What was the question? I didn't understand it.

Q Explain to the court whether any directives were issued pertaining to the mistreatment of prisoners?

A It was that beatings were co monly forbidden.

MR. BERKOWITZ: Repeat that.

COURT INTERPRETER: Beatings were commonly forbidden.

Q What position did Schwarz take towards prisoners? Did he bother about them or not?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: The objection is sustained.

Q Explain to the court how Schwarz handled the administration of the camp?

A Generally it would be said, "I never got acquainted with any commandant who was as correct as Schwarz." One could explain things to Schwarz and speak to him. If I had any complaints with him, he was not like the commanders in other camps who would order a person with words of "You dirty pig"; you muddy swine," and you could freely speak to him. I can verify that fact. When we went on the evacuation march I took a new pair of shoes along so that I could do some business, some trading on the way, to get some food, because we were bound to run out of it on the way. I traded shoes to a dog handler who gave me food for it, a bottle of wine, and a bottle of schnapps, and he wanted something else from me which I didn't have. I said, "I am sorry, I don't have that." So he got mad — he went to the commander and told the commander about me. He said to the commander that I had taken German Army property, that I was doing business with it, and that that was not a good thing to do and that I should be punished for it. So the commander called me and he asked me what it

was all about. So I told him I had taken the shoes for the purpose of trading; that we were bound to run out of food on the way, and that we should have something to obtain this food, and that was the only thing in which I could do it. So the commander, Mr. Schwarz, looked at me for a period of time and then he said, "Why did you do it?" I said, "I am sorry that I did it. If I had known what a bad man this man was I would never have done it." So the commander looked at me for quite sometime and he said, "Come now, scream."

PRESIDENT: Wait a minute — go ahead.

A (Continuing) The dog handler had two big dogs. Whenever the prisoners' food was sent from Hersbruck he requested from me that I should give him some of the food for his two dogs, and I told him that I knew from the commander that this was prisoners' food and that couldn't be done. I told him that this was food for the prisoners and that I would refuse to give it to him, — he could shoot the dogs and then they would be eaten too — and we didn't need any dogs whatsoever — we could walk without any dogs.

PRESIDENT: The court cautions the witness to simply answer the questions of counsel and not to go into so much detail.

Q Did you take part in the evacuation of Camp Hersbruck?

A Yes.

Q When did the evacuation take place?

A I don't know. I believe it was the 12th of April, but it could easily be verified by a statement which I wrote, a notice that I have in my file, which gives the exact route of march and the exact number of people which we always left behind. It is in my file.

Q What kind of a document is that of which you are speaking that is in your file?

A It was the usual thing in the camp to make a report each day about the strength of prisoners that we had in our blocks and this report was also requested during the transport. I made this report

and it was written down by one of my clerks. I had two clerks, one of them a Russian, he was first clerk, and my second clerk was a Czech -- I don't know exactly which one of the two clerks wrote it down. So far as I know, or at least I believe that the second clerk wrote it down. He was a Czech. My first clerk was a Russian officer.

Q Can it be seen from this document with which group you were and with which group you marched?

A It can't be seen from the document who was in the transport, but the number of prisoners that were in the transport and the number of prisoners left behind is contained in the document; also, the number and names of men who died.

Q How large was the group when you left Hersbruck?

A I don't know exactly but I believe about 540 or 550 men.

Q How many such groups did you have?

A I was in the fourth column. After our column there were two more columns that were supposed to march but whether they actually started or when I don't know.

Q Who was the leader of your group?

A Technical sergeant Kirsch.

Q How were you equipped when you left Hersbruck?

A Each one was allowed to take along shoes or clothes that fit him and socks. We were well equipped. The people threw most of it away during the course of the march because it was too heavy for them to carry. They threw away blankets, overcoats --

Q Did you have any kind of a job or duty during the evacuation march?

A When the food didn't get to us anymore from Hersbruck and there was no food getting to us anymore, I went out and I was known around Bavaria. I went around the different villages to, as we say,

15 organise food. I got 3,000 pounds of potatoes in this village, 1500 pounds of potatoes in this village —

Q Mr. Schlagintweit, first of all I want to know whether you were a guard, a prisoner or just what you were when you started out on the march?

A I was prisoner at the last hour, just like in the beginning when I started out on the march.

Q Was there a camp police?

A I don't know of any camp police existing in Hersbruck.

Q How many guards were with your group?

A My estimation, about 50 men.

Q What happened on the way with those prisoners who were sick and couldn't march on?

A At night, when we made quarters for the night, we recognised SS men, vehicles, and horse-drawn wagons from the farmers; then the wagons along behind the column, about 15 kilometers, and on these wagons we had loaded the sick people. We did that until we reached the village and we had an air attack by the Luftwaffe aircraft. Two horses were shot to death and a cow. Then we got another wagon and put the two horses and the cow on it and fried them later on.

PRESIDENT: Dr. Wacker, caution the witness not to go so much into detail about these things. Simply answer your questions. If you desire to have him amplify the situation, the court will give you an opportunity, but simply have him confine himself to the question.

DR. WACKER: Only answer my questions and, if possible, very concise.

Q Where were those sick people and those who could not march on taken?

A To the next village where we made bivouac.

Th-590

16

Q What happened there to the sick people?

A Most of the prisoners were already treated on the way by a doctor, who was with the marching column with me, a prisoner.

Q And what happened in the villages?

A In these villages the prisoners remain behind and we marched on without the sick people.

Q Can you state the route of march from Marshbrenk to Dachau?

A That I can't do, but if someone tells me then I will know again because I can remember the names of the villages through which we passed.

Q How long a time did this march take up altogether?

A 22 or 23 kilometers before reaching Dachau. I escaped with my clerk because the dog handler promised me I would be shot to death — how far they went on, I don't know.

Q What kind of an incident was that about which you just speak that you were to be shot to death?

A This dog leader who requested the food for the dogs from me, and whom I refused this food, he didn't like me anymore. I got acquainted with a girl, she seemed to like me, and he was after her also, and that is probably the reason.

Q What did you do about this threat that you were to be shot?

A From my clerk I heard about it. He told me that he had — this man had told the girl and her mother that he wanted to do away with us and he did so and stated this to many people in many villages.

Q Did you not talk to anyone else about that?

A With my clerk because he said that my clerk and I would be the first ones to be shot to death upon our arrival in Dachau.

Q What was the dog leader — what was his rank?

A He was a sergeant.

Q Why did you not complain?

A I did not see Mr. Holzwarz again, otherwise I would have complained.

Q Were any prisoners shot to death during the march?

A Not a single prisoner was shot to death from my column. However, when we passed through the woods near a village, I don't recall the name of this village exactly, a prisoner came from the woods and he had a shot wound across his back, about this deep and about this long (indicating). He came out of the woods towards me.

Q Did you talk with this prisoner?

A At first I didn't see at all that he had been shot at and wounded. He was crawling up this hill. He was down below and we were marching on the crest of the hill, on the road, and he was coming up there and I went towards him.

Q What was the content of the conversation that you had with this prisoner?

A I asked him what was the matter with him, because I then saw that he was bleeding. At any rate I could n't speak German very well. He was either an Italian or a Pole. And then he said he had escaped with several others and that they had fired after him. He didn't say it like I am telling you this now — he had an accident, and that he had then returned. Evidently he regretted his act then because he was wounded — so when he saw we were coming along he came towards us.

Q Did he say anything to you whether other prisoners had been shot to death?

A He must have been the only one who caught a shot.

Q Is anything known to you about order, whether prisoners were to be shot on this evacuation march or not?

A I know something about that.

Q What?

A By accident I listened to a conversation between Mr. Schwarz and another man whose name I don't know.

Tk-590

18

Q Where was that?

A That was on the march to Pfaffenhofen. I don't know exactly the name of the village but that could be easily determined.

Q What did you hear at that time?

A I heard then that no prisoner was allowed to be shot to death, not even while escaping.

Q Who was the person with whom Schwarz had the conversation? Was he a civilian or a guard or who was he?

A He was a military man, an SS man, but I don't know who he was.

Q Was that an SS man who belonged to the prisoner column?

A He didn't belong to my column. He must have come from some other place.

Q Was he a private, a guard or did he have a higher rank?

A That I can't remember anymore. I didn't pay any close attention either. I never knew any SS rank from the other — besides, that never interested me whether he was a corporal, a sergeant or whatever he was.

Q You wanted to explain something else that came after the conversation. What was that?

A I was very glad about that because I wanted to get rid of some of these people. I had been marching during the day and organizing during the night so I went from one column of 100 to the next and told everyone, "Listen, I just heard that no one can be shot anymore, so take off any way you want to escape, but do it in a manner that they won't suspect me, otherwise they will finally get me."

Q Did any prisoner escape then because of this advice that you gave them?

A The next day about eight prisoners had escaped.

Q Did you see any corpses during the march?

A Yes. Just a moment. Dead bodies? Only those who had died in my column, but I have seen graves and I have seen a grave that was

just being dug.

Q Did you see people who had been shot to death?

A No.

Q Was there any airraid during the march?

A There was an air raid. I was marching in column 4 and we just by accident had overtaken marching column 3 and a military man on a motorcycle passed us by, and when I had passed three quarters by the third marching block the airplanes appeared above us. To the left and to the right were high trees and the planes couldn't see that we were prisoners.

Q Did you have any dead or wounded?

A There were dead and wounded. Altogether including the wounded and the dead they had about 25 casualties.

Q Only prisoners or guards also?

A Most of them were prisoners. I only know one guard who was wounded also.

DR. WACKER: I am advised that there might be a possible error in the translation concerning the conversation about the shooting. May I be allowed to ask the question again?

MR. BERKOWITZ: May it please the court, if there are any objections to any part of the translation, I suggest that Dr. Wacker refer the word or words to the interpreter and ask that it be interpreted.

PRESIDENT: Dr. Wacker, the court will grant you permission to go into the matter of the translation if there is any question or doubt about it in your mind.

DR. WACKER: It could be cleared up very easily if the witness would again state what the conversation was that he overheard at that time.

MR. BERKOWITZ: May it please the court, we have the record of what the prisoner said. If there is any objection to any part of the translation there is a proper way of doing it, rather than have the witness given a chance to change his testimony.

DR. WACKER: I am advised now by a second party about the same mistake in the translation and will have to object to the translation of the conversation now.

PRESIDENT: The reporter will read the question and answer.

(Whereupon the reporter read the following questions and answers)

"Q Is anything known to you about order, whether prisoners were to be shot on this evacuation march or not?
"A I know something about that.

"Q What?
"A By accident I listened to a conversation between Mr. Schwarz and another man whose name I don't know.

"Q Where was that?
"A That was on the march to Pfaffenhofen. I don't know exactly the name of the village but that could be easily determined.

"Q What did you hear at that time?
"A I heard then that no prisoner was allowed to be shot to death, not even while escaping."

"Q Who was the person with whom Schwarz had the conversation? Was he a civilian or a guard or who was he?
"A He was a military man, an SS man, but I don't know who he was.

"Q Was that an SS man who belonged to the prisoner column?
"A He didn't belong to my column. He must have come from some other place.

"Q Was he a private, a guard or did he have a higher rank?
"A That I can't remember anymore. I didn't pay any close attention either. I never knew any SS rank from the other — besides, that never interested me whether he was a corporal, a sergeant or whatever he was."

DR. WACKER: The translation is all right, sir.

PRESIDENT: Court will adjourn until 0900 hours, Tuesday morning, November 12th.

(Whereupon at 1700 hours Court adjourned to reconvene 12 November 1946 at 0900 hours).

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on ..... 194 .....
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused ..... 194 .....
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13 gwo.

Court
Legal Form No. 8
First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

Pages 6457 - 6528, Incl.

Case No. FLOSSENBURG

*~~Summary~~
*~~Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 12 November 194 5

Prosecutor

Defence Counsel

Interpreter

Reporter

Members of Court:

WITNESSES:

WILLY SCHLAGINTWEIT
EMIL OSSI SCHROEDER
OSSI SCHROEDER
HERBERT WONDE
HANS FRIEDRICH LENZ

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

12 November 1946 Pages 6457 - 6528 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
WILLY SCHLAGI TWEIT	6457	6460			6463
EMIL OSSI SCHROEDER	6466	6471			
OSSI SCHROEDER			6479	6479	6480 6483 6486
HERBERT WONDE	6487	6495	6500 6504	6502	6503
HANS FRIEDRICH LENZ	6506				

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
Defense 39, 40, 41	Statistical Charts	6519	6523

Camp Dachau
November 12, 1946

MORNING SESSION

Ta-591-11/12-IB-1
Floss.

(Whereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, may the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all of the personnel of the defense are present, and all of the accused are present with the exception of Olschewski, Oswalt, Eisbusch, Mussfeldt and Wurst and Lipinski, who are ill and whose interests are being taken care of by their counsel. The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom.

PRESIDENT: The court has appointed Mr. Irving Berman as court reporter, who will now be sworn.

(Whereupon Mr. Irving Berman, U.S. Civilian, was sworn to act as court reporter.)

PRESIDENT: Continuation of direct examination, Dr. Wacker?

WILLY SCHLAGINTWEIT, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter, as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY DR. WACKER:

Q What happened during the air raid to the evacuation march?

A We marched--I was in the fourth column--we just

marched ahead of the third column, and at that time a soldier came by in a motorcycle with a side-car, and the airplanes had already started circling around us. Then the airplaines fell into column and flew from the right to the left, and the first plane dove down and attacked the first column.

Q Were there any dead or wounded?

A There were about twenty-four (24) dead and wounded.

Q What happened to them?

A I don't know--they stayed there, and the doctor went over to them, and commandant Schwarz went there too.

Q What did those two gentlemen do?

A The doctor took a look at the people, and we were called to fall in, and the order went around that we would start marching again.

Q What did Schwarz do?

A I don't know what he did. I only know that we got the order to march away again, and I heard that the people would be brought into a hospital eventually.

Q Did anything unusual occur during the remainder of the evacuation march?

A Nothing else of interest happened in our column except this one incident which I already described where this person came to us who had been shot at.

Q How long did you stay with this evacuation march?

A I had escaped from the column 25 kilometers from the village of Eiterbach. I escaped with my clerk and with the Russian officer.

DR. WACKER: No further questions.

(Schlagintweit - Direct)

PRESIDENT: Mr. McKay?

MR. McKAY: I have some questions in behalf of the accused No. 5.

QUESTIONS BY MR. McKAY:

Q Schlagintweit, you said you were a Blockeldest in Hersbruck, is that right?

A Yes.

Q What nationality of prisoners resided in your block?

A I had practically all nationalities: Poles, Russians, one American, a Swiss, and Yugoslavs.

Q How many Russians lived in your barracks?

A I can only estimate about how many--about 20 or 25 Russians.

Q Do you know where these Russians worked--on what detail?

A I had one Commando. They worked with the Electrical Technician Commando.

Q Do you know where that Commando worked?

A Inside the camp and outside the camp, in SS houses, and where installations had to be put in, wherever they were needed.

Q Will you explain what the situation was with regard to people who lived hear your barracks, who worked on the detail in ~~Nurnberg~~ NUERNBERG?

A I had 50 men who worked in the ~~Nurnberg~~ NUERNBERG detail, and every day they would drive out to ~~Nurnberg~~ NUERNBERG, to the command there.

(Schlagintweit - Direct)

Q Will you explain to the court what, if anything, these men ever said about the conditions under which they had to work in ~~Nurnberg~~ NUERNBERG?

A All the people were glad to go to this ~~Nurnberg~~ NUERNBERG detail, because as we sit in the camp they had a chance to organise, to scrounge up things there.. I had about 21 commandos in my block and there were always some people who tried to get out of work, and whenever they were missing I would look for them in the ~~Nurnberg~~ NUERNBERG commando, and found out every day two or three would go to ~~Nurnberg~~ NUERNBERG to work because they could scrounge up things.

Q Do you know who was Chief Capo of the ~~Nurnberg~~ NUERNBERG detail?

A Peter Bongarts.

Q Do you think you could recognise Bongarts if you saw him again?

A Yes.

Q Will you look over at the prisoners sitting behind me in the dock and see if you can recognise the man you know as Bongarts?

A The second row, the first to the right.

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 5 as Bongarts. No further questions.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Schlagintweit, you wore the green triangle, did you not?

A Yes.

Q Were you previously convicted for any felonies before you came to the concentration camp?

A Yes.

Q What were those offenses?

A Deception.

Q How many times were you convicted?

A All in all it would be 18 or 19, but I only had to sit out of six various ones.

Q What were--

PRESIDENT: Mr. Berkowitz, it is not clear in the minds of the Court at the present time whether those previous convictions are felonies or misdemeanors, or what they are.

MR. BERKOWITZ: If it please the court, I asked concerning felonies.

PRESIDENT: You may continue.

Q What was the nature of the deception?

A In 1938 I had already sat out a sentence because of deception, because of a court proceedings which continued for eighteen months, and then the criminal police came to see me at the end of that and wanted to start another proceeding with me because of incidental cases which had taken place before that. At that time I didn't know the German accurately and didn't know that they had no right to do that. They interrogated me about some cases at the end of these eighteen months of proceedings and I said no, I am not going through that again, I already had enough of that, and so I escaped. After I had escaped my money ran out and I borrowed two

hundred and eighty (280) marks.

Q Just answer my question: What was the nature of the deception for which you were sentenced?

A The deception consisted of the fact that when I borrowed this 280 marks after I escaped I didn't tell these people that I had escaped; I told them that I had a business; and because I already was in the bad graces of the Munich police they denounced me and I got three years in a penitentiary because of these 280 marks, and at the end I went into the camp.

Q Now Mr. Schlagintweit, how much time did you spend in prison before you came to the concentration camp?

A Eighteen months, six months, eight months, and five months.

Q That is only four. You said you had six of them.

A That's the reason--because once I had five months and ten days. That's two punishments.

Q Now, have you been advised by your defense counsel that there is a possibility of your being named as a defendant in a subsequent Flossenburg proceeding?

A No.

Q You were not told that by your defense counsel?

A I don't understand it exactly.

MR. BERKOWITZ: Would the interpreter repeat the question.

(Whereupon the interpreter repeated the question.)

A No.

Q Were you not told that by the defense counsel?

A You mean before? Two days ago?

Q You were told that before you took the stand.

A Yes, they told me.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

DR. WACKER: No other questions.

PRESIDENT: Mr. McKay?

MR. McKAY: Nothing further.

EXAMINATION BY THE COURT.

QUESTIONS BY PRESIDENT:

Q Now you have mentioned that you had eighteen or nineteen previous convictions?

A Yes.

Q Were all of those previous convictions for a felony or for felonies?

A Deception and embezzlement. Nothing else. Fraud and embezzlement.

Q In other words there were a series of cases, is that right?

A Yes.

Q And the court understands from your statement that in one case where you contend deception was involved in borrowing 280 marks, that you got three years?

A Yes.

Q There was no other charge involved outside of that 280 marks?

A No, but I borrowed these 280 marks from various people.

(Schlagintweit - Court)

Q In other words that 280 marks was a total sum then?

A The total sum was 280 marks.

Q How many people were involved in that?

A Six or eight persons.

Q Now, did these charges of deception always involve money matters?

A Yes, it always concerned money. On one occasion I borrowed a bicycle and the bicycle was stolen from me. They accused me of having sold a bicycle, which wasn't true.

Q The court understands you were a Blockeldest when you left Flossenburg to go to Hersbruck?

A I wasn't a Blockeldest in Flossenburg but when I was ordered out of Flossenburg to Hersbruck I was ordered in the capacity of Blockeldest to Hersbruck.

Q Well, when you left Flossenburg, what were your duties?

A I worked in the warehouse in Flossenburg where the material was given out, and after I had first arrived in Flossenburg I worked for about four weeks in street construction.

Q All right. When you arrived at Hersbruck the court understands you became a Blockeldest.

A Yes, I lay for three or four weeks in the block and then about in the middle of January I was assigned as Blockeldest in Hersbruck.

Q What block did you have?

A Block 5.

(Schlagintweit - Court)

PRESIDENT: Any further questions by the members of the court? Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q What was the longest sentence outside of the three years that you mentioned, that you had? Did I understand that it was eighteen months?

A Three years was the longest.

Q I mean besides the three year one?

A Eighteen months.

Q What caused you to get eighteen months?

A Because of fraud.

Q How much money was involved?

A I can't tell you any more exactly, but the amount of money wasn't very big.

Q Was it as much as the 280 marks that you got three years for?

A It was somewhere between 280 and 500 marks--somewhere around in there. I can't tell you exactly.

COLONEL JACKSON: That is all.

PRESIDENT: Any further questions by the members of the court? Apparently not. Redirect?

DR. WACKER: No more questions.

PRESIDENT: Mr. McKay?

MR. McKAY: Nothing further.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further.

PRESIDENT: The court understands that the defense has finished with this particular witness.

MR. McKAY: That is correct, sir.

(Schlagintweit - Court)

PRESIDENT: The witness is excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: Ossi Schroeder now appears as a witness for the defense. I am calling this witness also on behalf of the accused No. 45, Schwarz.

EMIL OSSI SCHROEDER, called as a witness for the defense, being first duly sworn, testified through an interpreter, as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name, Mr. Schroeder?

A Emil Ossi Schroeder.

Q How old are you?

A 40 years old.

Q Are you married?

A No.

Q Where do you live?

A Schmidtmuehlen, Amberg.

Q What is your profession?

A A buyer.

Q Were you ever in Hersbruck?

A Yes.

Q During what period of time?

A The 14th of February to the 13th of April, 1945.

Q In what capacity were you in Hersbruck?

A Blockeldest--as a prisoner, yes.

DR. WACKER: Please wait until the question has been translated by the interpreter before answering.

(Schroeder - Direct)

Ta-891-11/12-IB-9
Fless.

Q In what block were you Blockeldest?

A Seven (7).

Q Where did you come from when you came to Hersbruck?

A From Gleiwitz to Gross Rosen, from Gross Rosen to Hersbruck.

Q When did you first arrive in a concentration camp?

A The 20th of January 1941.

Q To what camp did you go then?

A To Sachsenhausen.

Q How long were you there?

A Three-quarters of a year.

Q And where did you go then?

A To Neuenhammer.

Q From there, where did you go?

A Auschwitz.

Q Where did you go from Auschwitz?

A To Gleiwitz.

Q And from Gleiwitz to Gross Rosen and from Gross Rosen to Hersbruck?

A Yes.

Q Who was commandant of the outside camp of Hersbruck at that time--when you arrived at Hersbruck?

A Captain of the SS, [redacted].

Q Would you recognize him if you saw him again today?

A Yes.

Q Please point him out?

A There is Schwarz over there (Indicating).

(Schroeder - Direct)

DR. WACKER: Let the record indicate that the witness has identified No. 43 as Schwarz.

Q Please tell us briefly how Schwarz took care of the prisoners in Hersbruck?

A Captain of the SS Schwarz was a man who took trouble about the conditions in the camp and who forbade any beatings.

Q What kind of food did you get in Hersbruck?

A In comparison to the other camps the food was sufficient.

Q Before you got to Hersbruck, in what camps had you been?

A One week before that we had been in an evacuation march in Gross Rosen and before that three months in Gleiwitz.

Q How was the food in Hersbruck in comparison with the food in these two other camps--Gleiwitz and Gross Rosen?

PROSECUTION: I object to that question on the grounds that it is immaterial and irrevelant to the issues in this case. There is no evidence of the nature of the food in the other camps so that a comparison can be made intelligently for the benefit of this court.

PRESIDENT: The objection is overruled.

A In comparison to the other camps the food was somewhat better.

Q Did Schwarz have anything to do with the food in Hersbruck?

A He checked the food in the kitchen and he checked in the food in the blocks when the food was being given out.

(Schroeder - Direct)

Q Did he botner about the prisoners in any other way?

A Yes.

Q In what respect?

A When we first got to Hersbruck the camp as I first found it was rather beaten up and dirty, and in the course of time roll-call squares were erected and the convalescent barracks were opened so that the people wouldn't have to be put to work immediately after they were released from the hospital.

Q You mentioned before about beatings. Can you tell us about any instructions or orders which were given out in that respect, or what can you tell us about that?

A It is not known to me that the SS ever gave an order that anyone should be beaten.

Q Did you as Blockeldest receive any particular instructions?

A No.

Q Was beating allowed to you?

A No.

Q Was it forbidden for you to do it?

A Yes.

Q Who forbade it?

A Captain of the SS Schwarz.

Q Did people abide by this restriction or not?

PROSECUTION: Just a minute. I object to counsel leading the witness.

PRESIDENT: Objection sustained.

(Schroeder - Direct)

Ta-591-11/12-IB-12
Floss.

Q Did you hear about any beatings in Hersbruck?

A No.

Q Did you take part in the evacuation march?

A On the last transport.

Q When did you leave Hersbruck?

A The 15th of April 1945.

Q You said the last transport. How many transports had shoved off ahead of you?

A All in all there were five transports. We were the last ones to leave the camp. Ahead of us four transports had left.

Q Who was the leader of your transport?

A Roll-call leader Matlin.

Q About how many prisoners were included in your transport?

A About six hundred.

Q During the transport march, what happened to the sick people and the people who couldn't continue to march?

A We had wagons along and if anyone was incapable of continuing to march on foot we would load him on the wagon and bring him along that way.

Q What eventually happened with the sick people?

A We took the sick people along up to Schmidtmuehlen and there we cleared out the schoolhouses and gave the sick people quarters, and then we went into the village and asked the natives of the village for shirts and underwear so that the sick people in the schoolhouses could

(Schroeder - Direct)

clean themselves up.

Q Did you see Schwarz during the evacuation march?

A Once.

Q Where?

A In Brunn, near Lauterhofen.

Q Did you see any corpses in the evacuation march?

A No.

Q Was anyone shot to death?

A No.

DR. WACKER: No more questions. Oh, just one more question:

Q How long did you march with column 5?

A From the 13th to the 17th of April.

Q What finally happened to this last group, this fifth group?

A I stayed with the sick people at Schmidtmuehlen together with some Poles and a Jewish doctor and a Polish doctor.

Q Do you know what happened to this last group?

A No.

DR. WACKER: No more questions.

PRESIDENT: Mr. McKay?

MR. McKAY: No questions.

PRESIDENT: Cross-examination?

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q How many prisoners were in Hersbruck when you arrived there on the 14th of February?

A When these big transports left Gross Rosen it

Ta-5 1-11/12-IB-14
Floss.

included 5,000 prisoners. In Plauen we were cut in half; half went to Hersbruck and the other half to Flossenberg.

Q How many were in Hersbruck when you arrived there the 14th of February? That was my question.

A Around 2,000.

Q In other words there were only 2,000 in Hersbruck at that time, and when the 2,500 came there it made a total of 4,500, is that correct?

A Yes.

Q Now you stated that the food was better in Hersbruck than it was in the other camps.

A Yes.

Q How much food did you get to eat in a day in Hersbruck?

A Each man would get a pound of bread; four men would get a loaf of bread weighing four pounds.

Q Is that all you got to eat?

A And then for the noon meal we would get one liter of food.

Q What was that food?

A Carrots, turnips, potatoes, beets with potatoes.

Q Anything else?

A And at the evening we got bread, 25 grams of margarine, and often a spoonful of marmalade.

Q How much bread did you get in the evening?

DR. WACKER: The witness wants to add something. I ask that you wait until he completes his answer.

(Schroeder - Cross)

Ta-691-11/12-IB-1
Floss.

(Whereupon the witness continued his answer)

A And once in a while in the evening we would get potatoes with the skin and cottage cheese, and whatever food was left over would be given to those work details who had to do the hardest work.

Q How much bread did you get in the evening?

A One pound; that had to last for the whole day.

Q So you did not get a pound in the morning then and another pound at night, is that correct?

A Only in the evening we got one pound and that had to reach out for the whole day, and in the morning we would get coffee.

Q How much weight did you gain when you got to Hersbruck?

A When I arrived at Hersbruck I had a weight of 126 lbs.

Q What did you have on the 13th day of April when you left there?

A 130 lbs.

Q Now you were Blockeluest during that time, were you not, of block 7?

A Yes.

Q How many prisoners died in Hersbruck on the average per day while you were there?

A I can't tell you that exactly because I didn't have the inside into the list of sick and dead in the hospital.

Q Approximately how many?

A Two, three; once in a while, one.

(Schroeder - Cross)

Q And that is your best judgment based on what you saw there, is that correct?

A In the evening when I had to turn in our reports in the clerk's office, the death reports would come in from the Blockeldesten and from the hospital.

Q That is the basis for your saying that only one, two or three died each day?

A Yes.

Q Do you not know as a matter of fact, Schroeder, that the average span of life of a prisoner in Hersbruck during the time you were there was approximately six weeks?

A No. We brought a great many dead people along with us in our transport to Hersbruck from Gross Rosen.

Q All right. Out of 2,500 that went to Hersbruck how many were dead at the time they got to Hersbruck?

A About two or three hundred dead people came along because for four days and four nights we had to travel in open railroad cars.

Q So that actually then there were only about 2,200 live prisoners that reached Hersbruck, is that correct?

A Yes.

Q You stated that it was forbidden to be beaten in Hersbruck. That was also true in Gross Rosen, was it not?

A I don't know.

Q It was also forbidden in Neuenhammer, was it not?

A Yes.

Q And it also was forbidden in Auschwitz, was it not?

A It was forbidden everywhere, but various SS people

and capes would violate this prohibition.

Q Nothing was ever done to the person who violated that prohibition, was there?

A No.

Q Now you stated that there were approximately 300 that were dead on this transport. Is it not a fact that only 39 were dead?

A No, there were more.

Q You are absolutely sure about that?

A Yes.

Q How many men lived together in a single block in Hersbruck?

A 250 to 300.

Q How many blocks did you have in Hersbruck?

A We had fourteen blocks with work details and four blocks with hospital people--sick people.

Q As a matter of fact the sick people were sent from Hersbruck to Flossenburg, were they not?

A At the end of March, sometime around then, a transport left Hersbruck with sick people for Flossenburg.

Q How many were in that transport?

A I can't give you the exact number, but I estimate a thousand.

Q When you got to Schmidtmuehlen, how many other sick prisoners did you see there?

A We had between 90 and 100 sick people in the school.

Q Were they out of your transport or were they out of a previous transport?

(Schr[illegible]der - Cross)

Ta-591-11/12-IB-18
Floss

A We had already met sick people who had dropped out of the preceding transports.

Q Did you collect them and put them out in the schoolhouse in Schmidtmuehlen?

A Yes, we took out the equipment inside the school and put in beds.

Q So that you left then at Schmidtmuehlen approximately 100 prisoners out of your column?

A Yes, I stayed at Schmidtmuehlen myself.

Q What is the distance from Hersbruck to Schmidtmuehlen?

A Forty kilometers.

Q Where is Brunn with respect to Schmidtmuehlen?

A Between Brunn and Schmidtmuehlen are about eighteen to twenty kilometers.

Q Is Brunn between Hersbruck and Schmidtmuehlen?

A Yes, that was where we had our first quarters.

Q Now Schwarz was in command of the evacuation of Hersbruck, was he not?

A Yes.

Q How many guards were there on your transport?

A About twenty SS people accompanied our transport.

Q And how many camp police?

A No camp police.

Q Were there any other persons doing guard duty other than the twenty SS men?

A Not with us, no.

(Schroeder - Cross)

Ta-591-11/12-1B-19
Floss.

Q What were your duties over this march?

A We marched from Hersbruck to Brunn in one day on foot, and there we made our quarters. The kitchen stayed back in the camp and they cooked the food there and the food was brought to us by automobile.

PRESIDENT: The court does not feel it necessary for the witness to go too much into detail.

Q How many dead people did you leave at Brunn?

A None.

Q Were you liberated in Schmidtmuehlen?

A On the 22nd of April, to the American Army, Major Robertson.

Q What kind of triangle did you wear?

A A red one and a green one.

Q Which did you wear first?

A First the red one and then the green one.

Q When did you acquire the green one?

A 1943.

PROSECUTION: No further questions.

PRESIDENT: The court will take a one hour recess.

(Whereupon the court recessed at 1000 hours.)

(Schroeder - Cross)

Camp Dachau, Germany
12 November 1946

Tk-592a
§92a
AB-1
Floss.
11:15 &
1:30

AFTERNOON SESSION

(Whereupon at 1330 hours the Court reconvened)

PRESIDENT: The court will come to order.

MR. PINTER: Let the record show that all of the personnel of the court are present, all of the personnel of the prosecution with the exception of Colonel Denson and Mr. Berkowitz, who are absent on business of the prosecution; all of the defense counsel are present with the exception of Mr. McKay and Mr. Hall, who are absent on business of the accused. The accused Olschewski, Oswalt, Lipinski, Gieselman and Losch are ill and absent by reason of that and Dr. Schmitz is conferring with his counsel. The interests of those accused who are absent are being taken care of by counsel. The witness is reminded that he is still under oath, and if there are any spectators in the courtroom who expect to be called as witnesses they will please leave the courtroom.

(Whereupon Mr. McKay entered the courtroom and took his place at the defense counsel table)

(The witness OSSI SCHROEDER resumed the witness stand)

(The accused Gieselman enters the courtroom and resumes his seat in the dock)

LT. COLONEL WILSON: May it please the court, let the record show that the accused Gieselman has come in, also Mr. McKay. —

(Whereupon Lt. Colonel Denson entered the courtroom and took his place at the prosecution table)

LT. COLONEL WILSON: (continuing) — and Colonel Denson.

PRESIDENT: It was not possible for the court to reconvene at 11:00 o'clock as planned due to a continuation of conferences

conducted by the Theater Judge Advocate and the Deputy Theater Judge Advocate. Redirect examination.

REDIRECT EXAMINATION (

QUESTIONS BY DR. WACKER:

Q Mr. Schroeder, this morning upon questioning by the prosecutor you gave an answer that the prohibition of beatings had been violated in general. Will you tell me now if this prohibition had also been violated in Hersbruck?

A Yes.

Q By whom?

A By a corporal who was my block leader but whose name I don't know.

Q Did Schwarz hear about that?

A Yes.

Q What happened thereafter?

A Schwarz reprimanded him and told him that he did not want to see any such thing in the future again.

Q Can you name more cases of that kind?

A The camp eldest No. 1, Humm, H-u-m-m.

Q What do you know about that?

A He beat two Russians in the clerk's office because they had boiled potatoes in an open fire near a wooden barn which could have been set afire by the open fire.

Q Did Schwarz hear about that?

A That is not known to me.

DR. WACKER: No further questions.

PRESIDENT: Mr. McKay?

MR. McKAY: Nothing further.

PRESIDENT: Recross examination.

RECROSS EXAMINATION

QUESTIONS BY LT. COLONEL DENSON:

Q Mr. Schroeder, do you mean to tell this court that the

instances that you named are the only two instances of beatings that took place in Hersbruck between February and April of 1945?

A There were more beatings but I did not see those, I only heard about them from others.

Q As a matter of fact, the beatings were commonplace things in Hersbruck, were they not?

A So far as I am concerned to call it commonplace is exaggerating.

Q Well, beatings took place every day in Hersbruck, did they not?

A Not in the camp but possibly in the outside details which I could not check because I was only camp eldest in the camp all the time.

LT. COLONEL DENSON: No further questions.

PRESIDENT: Any questions by the court?

EXAMINATION BY THE COURT.

QUESTIONS BY PRESIDENT:

Q Now, Schroeder, you testified that at Hersbruck sometimes there were three who died and sometimes one. Did you mean by that per day, per week or per month?

A It could have been per day, two, three or four, because the clerk from the hospital handed in his reports at night to the clerk's office, but we were not oriented about the goings on in there.

Q Now, you further testified, Schroeder, that when this transport arrived from Gross Rosen there were some 300 odd dead with the transport. Now, what the court wants to find out is the actual condition of the remainder of the prisoners that arrived from Gross Rosen on that particular transport, that is, their condition when they arrived at the indicated place, that is, Hersbruck?

A In a completely starved condition because they hadn't eaten for four days or nights.

Takes-592
& 592a

4

Q What was the death rate for the next week at Hersbruck after the arrival of the transport from Cross Rosen?

A The first four days many died.

Q What do you mean by "many"?

A Because of the weakness of the people -- they hadn't eaten for four days and they were weak.

Q Well, what do you mean by "many" - 10 - 15?

A The first days 15 to 20 could have died per day.

Q Well, do you know that to be a fact or is that just your idea?

A I don't know the exact number. I only know that during the first days when we had a rest I was informed by the camp eldest at night that many of them had died.

Q Well, again, what do you mean by "many" now?

A I can't give the exact number because I don't know it. All I know is that we heard from the camp eldest during the first days that we were there that very many of those people had died because they were physically weak.

Q You can't give us any more definition, is that the case?

A No.

Q Now, you further have testified that it was forbidden to beat prisoners everywhere. Now, just who put out those orders?

A In Hersbruck, the former commander, Schwarz.

Q In other words, the camp commander had put out orders to that effect, is that the idea?

A Yes.

Q Do you know of any orders that emanated from higher up that there would be no beatings?

A I don't know that.

Q Why were you sent to a concentration camp, Schroeder? Why?

A Because in my former life I had an anti-Nazi attitude and

because I committed a violation against economy.

Q Against what?

COURT INTERPRETER: Economy.

Q How many previous convictions did you have?

A Six.

Q What was the nature of those previous convictions, now?

A Theft, embezzlement, violation against economy and defraud.

Q How much time did you actually serve as a result of these six convictions?

A Three and one-half years.

Q Two and one half?

COURT INTERPRETER: Three and one-half.

Q What was the total length of the sentences given you?

A Six months, year and one-half, ten months and one was four or five months.

PRESIDENT: Any further questions by any member of the court? Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q What year was your first sentence?

A 1932.

PRESIDENT: Any further questions by any other member of the court? Apparently not. Redirect examination. Dr. Wacker?

DR. WACKER: Thank you. Nothing further.

PRESIDENT: Recross examination.

LT. COLONEL DENSON: Nothing further, sir.

PRESIDENT: Any further questions by any member of the court?

QUESTIONS BY MAJOR LANHAM:

Q Did you state awhile ago that you were at one time camp eldest at Hersbruck?

A No.

6 PRESIDENT: The court will take a short recess in place.

(Whereupon at 1350 hours the court recessed in place until 1352 hours)

PRESIDENT: The court will come to order.

EXAMINATION BY THE COURT (Continued)

QUESTIONS BY MAJOR LANHAM: (Con'd)

Q Now, in answer to a question by the prosecutor you stated you were camp eldest, is that correct or not correct?

PRESIDENT: Just a minute.

COURT INTERPRETER: Sir, that is an error on my part, may it please the court. He said, "I was block eldest and in the camp all the time."

PRESIDENT: Any further questions by any member of the court? Apparently not. Redirect examination.

DR. WACKER: Nothing, sir.

LT. COLONEL DENSON: May I ask, may it please the court — this is in view of the correction that has been made —

RECROSS EXAMINATION

QUESTIONS BY LT. COLONEL DENSON:

Q Who was the camp eldest in Hersbruck at the time that you were there?

A The camp eldest, No. 1, was Humm and camp eldest, No. 2, Wilhelm Pikave von Steuben.

Q Wilhelm von Steuben was a very brutal man, was he not?

A No, the other way around.

Q What do you mean?

A The camp eldest "1" was, Humm.

Q And how long did Humm remain as camp eldest?

PRESIDENT: Just a minute. Dr. Wacker.

DR. WACKER: I object to this line of questioning because it exceeds the scope of direct examination and has no connection with Schwarz.

LT. COLONEL DENSON: I would like to be heard on that, may it please the court.

PRESIDENT: On what basis?

LT. COLONEL DENSON: On the basis that the answer he gave before was that he was the camp eldest. Now, I have information here that there was a camp eldest there who was very brutal and he remained there throughout the entire time that Schwarz was there and Schwarz knew about his brutality. I would like that that not be translated, may it please the court.

MR. McKAY: It must be translated.

LT. COLONEL DENSON: Well, then, I ask that the witness be excused while it is being translated.

PRESIDENT: The witness will be excused from the courtroom for the time being.

(Whereupon the witness, Ossi Schroeder, left the courtroom)

(Whereupon defense counsel, Mr. McKay, left the courtroom)

PRESIDENT: Of course, Colonel Denson, you understand fully that the interpreter mentioned that a mistake was made during the course of the translation in relation to camp eldest.

LT. COLONEL DENSON: Yes, sir. I wasn't going to ask this man about his own misconduct. I can't expect to get a favorable answer from him. And when he said he was camp eldest that is when I stopped my questioning. In other words, he said he had talked, on former cross examination, with respect to the mistreatment and that these people were punished by Schwarz. I expect the testimony

592-592a
8

to show that this man was a well-known beater and that he remained in office under Schwarz, and not, may it please the court, the inference that is being obtained from this man's testimony that Schwarz did everything that he could to improve the conditions of the camp by punishing the rottenfuehrer who was the block leader of the witnesses' block and others.

PRESIDENT: All right. Dr. Wacker. The court has given the prosecutor a chance to make a statement and the court is giving you the same opportunity.

DR. WACKER: I should like to object to this for the reason that it appears as if the prosecution wants to obtain information about von Steuben and Humm. But we heard from the witness himself that he only knows about this one case of beating on the part of Humm and with that the case seems to be closed.

PRESIDENT: The objection is overruled. Call in the witness.

(Whereupon the witness Oasi Schroeder resumed the witness stand)

PRESIDENT: Caution the witness that he is still under oath. Proceed, Mr. Prosecutor.

LT. COLONEL DENSON: Will you please read the last question?

(The last question was read by the reporter)

A When I got there he was camp eldest and he was still there when the evacuation was going on.

Q And Humm was a very brutal man, was he not?

A Yes.

LT. COLONEL DENSON: No further questions.

PRESIDENT: Redirect examination.

DR. WACKER: No further questions.

PRESIDENT: Any further questions by any member of the court? Major Lanham.

EXAMINATION BY THE COURT

QUESTIONS BY MAJOR LANHAM:

Q Did this man Humm remain as camp eldest until the end of the camp — that is, the evacuation?

A Yes.

Q Was there any action taken against him by the camp commander Schwarz?

A No.

Q Was it common knowledge that this man Humm, or whatever his name was, was a very brutal man?

A Among the Flossenburg prisoners who were there, yes.

Q Well, what was his reputation at Hersbruck?

A Among our transport Humm was not known, but when we arrived there the other people told us about him.

Q After you arrived, how did Humm conduct himself?

A If people had done anything he beat them.

Q Do you know whether or not Schwarz knew about the fact that this man did beat various inmates?

A I don't know about that but Humm was, together with 1st lieutenant Dettmers most of the time.

Q Did Schwarz take any punitive action against him while you were there that you know of?

A No, I don't know it.

Q Do you know why he didn't?

A That I don't know.

MAJOR LANHAM: That is all.

PRESIDENT: Any further questions by any member of the court? Apparently not. Redirect examination.

DR. WACKER: Nothing, sir.

PRESIDENT: The court understands that the defense is finished with this particular witness?

592-592a
10

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

MR. McKAY: The witness has requested to stay in the courtroom and the prosecution has no objection.

PRESIDENT: Any objection on the part of the defense?

(No answer)

PRESIDENT: Any objection on the part of any member of the court? Apparently not. The former witness will be granted permission to remain in the courtroom, that is, with the definite understanding that this witness will not be recalled at any time by either the prosecution or the defense, or by the court.

MR. McKAY: Just a minute. May I check with Mr. Hall first?

PRESIDENT: The court will take a short recess in place.

(Whereupon at 1403 hours a recess was taken by the court until 1407 hours)

PRESIDENT: The court will come to order. The previous witness Schroeder will be permitted to remain in the courtroom. All right proceed.

(Whereupon Ossi Schroeder resumed a seat in the courtroom)

Mr. McKAY: The next witness being called on behalf of the accused 5 and 43, is Herbert Wonde.

HERBERT WONDE, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name for the court?

A Herbert Wonde.

Q How do you spell your last name?

A W-o-n-d-e.

Q Mr. Wonde, what is your present occupation?

A I am a photographer by profession but I am without a job at the present time.

Q Where are you living?

PRESIDENT: Just a minute — go ahead.

Q (continuing) Where is your present residence?

A Amberg Oberpfalz.

Q Were you ever in the Camp of Hersbruck, Mr. Wonde?

A Yes.

Q And what was your status there, a civilian, a soldier or a prisoner?

A Prisoner.

Q When did you arrive in Hersbruck?

A February 11, 1945.

Q How long did you remain in the camp of Hersbruck?

A Eight weeks, until the liberation.

Q During the time that you were a prisoner in Hersbruck, to what detail were you assigned to work?

A Construction detail ~~Nurnberg~~ NUERNBERG.

Q Did you hold any kind of a position on the construction detail ~~Nurnberg~~ NUERNBERG?

A Yes, foreman.

Q How many men did you have on your detail?

A Fifty.

Q What kind of workers made up your detail?

A Masons and carpenters, only skilled laborers.

Q Where did your detail work, Mr. Wonde?

A During the first few days in the Reich's railroad repairshop.

Q Where did they work the remainder of the time?

A At the main station and the coal yard which belonged also to the railroad station.

Q What kind of work did your detail perform in the main railroad station?

A To erect walls around railroad cars, so-called telephone cars, because the railroad station had been damaged by air attacks and these walls were erected to protect the cars from shrapnel.

Q Can you give the court any approximate date that your detail began to work in the main railroad station?

A The beginning of March.

Q Of what year?

A 1945.

Q How long did your detail continue to work in the main railroad station?

A Until the last day, until the evacuation.

Q During the time that your detail worked in the main railroad was there any other detail that worked there also?

A Yes. Whenever there was an air raid another column of 100 prisoners were sent there to clear the rails.

Q What kind of work were those 100 prisoners doing in the station?

A To fill up bombed craters and to put tracks over them.

Q Will you explain to the court what the condition was with regard to your detail working on Sundays during the month of March of the year 1945?

A We also worked Sundays, skilled workers.

Q Who was your superior on detail ~~Nurnberg~~ NUERNBERG, Mr. Wonde?

A The capo Bongarts.

Q And what was capo Bongarts's position?

A He had to supervise the prisoners while they worked.

Q Will you explain to the court just what the situation was with regard to capo Bongarts visiting your detail on the Sundays that you worked in March?

A He was always present on Sundays.

Q Will you explain to the court how often he would be present on other days with your detail?

A During the week he wasn't there so often. Sometimes twice or three times a day he would come around to look.

Q How many times would he visit your detail on Sundays?

A He was always present during Sundays.

Q During the time that he was there on Sundays, was the other detail working? I refer to the 100 men that you spoke of.

A One Sunday we were along, the other Sundays they were there.

Q Did you observe what the other detail of 100 men while they were actually working?

A No, they worked in the coal yard which was about 500 meters away. They cleared tracks there.

Q Now, Mr. Wonde, will you explain to the court just what the situation was in the main railroad station with regard to freight cars being there?

A There were only passenger cars in the main station.

Q Mr. Wonde, did you have an opportunity to observe how capo Bongartz treated the prisoners on your detail?

A Yes.

Q Will you explain to the court just what you saw with regard to Mr. Bongartz's treatment of prisoners who worked in your detail?

A The masons and carpenters worked all the time and they worked high so that we never caused anyone to pay attention to us.

Q Well, did you observe capo Bongartz when he was with the other detail of 100 men who were working in the railroad station?

A No. An SS man went along from detail to detail and it was far away so that I couldn't see it.

Q Will you explain to the court what, if any, orders you heard

giv en with regard to prisoners plundering railroad cars while you were working in the main railroad station?

A Bongarts read an order to us issued by 1st Lieutenant Schill, that anyone who would loot cars,who would take anything from the cars into his possession or enter any of the freight cars,could be shot to death immediately.

Q At that time did capo Bongarts explain to you who Lieutenant Schill was and what authority he had to give this order?

A Bongarts told us that whenever Lieutenant Schill should come around that they - we were to work hard so that we wouldn't be reprimanded because he would make report directly to Berlin.

Q What was the situation in the main railroad station with regard to people being present while your detail was working there and, also, this detail of 100 men who worked there along with your detail?

A Civilians?

Q Yes.

A There were still trains running.

Q Now, you stated that this detail of 100 men worked in the coal yard part of the time. How far was that from the main railroad station itself?

A Five or six hundred meters.

Q Will you explain to the court just how Mr. Bongarts treated prisoners that worked under him? What did you see him do, if anything?

A How should I answer this question? Whether he beat or what?

Q I want you to describe just what you saw him do?

A He came with the SS guard and he gave orders as to things, how things should be done, because allegedly he knew something about railroad work.

Q Well, now, what did you actually see him do in relation to

592-592-a

15

other prisoners, that is what I am interested in?

A (pause)

Q You spoke of beatings. Will you explain what you saw in relation to beatings on the part of Bongarts?

A I remember one case well. One of the railroad men had taken off his jacket and put it aside and a prisoner, I think it was a Russian, went over and took the tobacco from the pocket of this railroad man.

Q What happened?

A He got a few slaps on the ears.

Q And how were those slaps administered?

A With the hand.

Q What do you mean, with the hand? Show the court what you saw with regard to his hand?

A He put his five fingers in his face.

Q Did you ever see anything else of that kind?

A No.

Q Will you explain to the court what, if any, directions you were given with regard to the treatment of prisoners who were working in the main railroad station?

A We were being told every day that beatings in the main station were prohibited.

Q You think that you could recognise Mr. Bongarts, if you saw him again?

A Yes.

Q Will you please look over the men seated behind me in the dock and see if you can recognise the man that you knew as Bongarts?

A Yes.

Q Point him out to me.

A (sitting — pointing)

Tk-592-592a

16

Q Come down here and point him out?

A (Witness steps down and points)

(Accused No. 5 stands -- sits down)

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 5 as Bongartz.

(The witness resumes his seat)

MR. McKAY: The witness is also called on behalf of the accused represented by Dr. Wacker.

PRESIDENT: Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Mr. Wonde, what triangle did you have in Hersbruck?

A A red triangle.

Q How did the detail travel to Nuernberg from Hersbruck and back?

A By railroad in a freight car.

Q Were there any conversations about the happenings of the day at night?

A Yes.

Q Did you ever talk about any case that anyone of your prisoners had been beaten to death?

A No.

Q Would you have heard about that if anyone had been beaten to death?

A Yes, that would have gotten around.

Q Did you ever arrive with one prisoner less than you had started out with at Hersbruck?

A Yes. At one time a German and a Jew escaped - they escaped together.

Q Did any other case happen where by one prisoner or more prisoners less arrived in Hersbruck?

A No.

Q Who was the camp commander of the outcamp of Hersbruck?

A Captain Schwarz.

Q Would you recognize him if he were here?

A Yes.

Q Please point him out?

A (pointing)

(Accused 43 stands -- sits down)

DR. WACKER: Let the record indicate that the witness has identified No. 43 as Schwarz.

Q How did Schwarz conduct himself toward the prisoners?

A We had been evacuated from Gross Rosen and we were happy to find a commander who was not as strict.

Q Please explain that a little more in detail?

A For instance, when those two escaped we would have had to stand for many hours in Gross Rosen.

Q And at Hersbruck?

A After the roll call we could fall out immediately.

Q Can you say anything else about Schwarz?

A We were surprised when we were allowed in Hersbruck to stay in the blocks four days to rest up and,furthermore, directly upon our arrival in Hersbruck we received one quarter of a loaf of bread and pea soup. That was something entirely new to us.

Q Did you take part in the evacuation from Hersbruck?

A Yes.

Q When was that?

A In the middle of April.

Q Do you know in how many columns the camp of Hersbruck was evacuated?

A Yes. The camp was divided up; the sick people were sent to Dachau by railroad and the rest of the camp was divided into five columns,each of which started out two days apart from the next.

592-592a

18

Q With which column were you?

A With the last.

Q Who was the leader of that column?

A First sergeant Hedling, the roll call leader.

Q How many prisoners were shot to death during the evacuation march?

A In our column no one was shot to death. The sick people were loaded on cars, wagons and were behind the column.

Q Did marching column 5 arrive in Dachau or where did it go to?

A I can't say that because I and many others escaped in Schwidmuehlen.

DR. WACKER: Thank you. No further questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY LT. COLONEL DENSON:

Q Mr. Woude, there in the freight yard at the main station, there were cars that hauled freight, were there not?

A There were passenger cars partly burned out and some intact.

Q There were also cars that were used to haul freight, were there not?

A At the main station there were only passenger cars.

Q You mean that persons were able to ride in the cars that were there at the main station? They were only passenger cars?

A Yes.

Q They didn't have any mail cars there?

A No mail cars, no.

Q Approximately how many cars did they have in that yard?

A Sometimes twenty, sometimes fifty — it varied.

Takes 592
& 592a

19

Q You mean that is all the cars they had in the yard at the main station, is that correct?

A In the territory of the main station, yes.

Q Now, what do you mean by the territory of the main station?

A It is the territory surrounding the railroad station, 3, 4, 5 hundred meters wide.

Q All right. And beyond that 3, 4, or 500 meters they had yards, did they not on which stood freight cars, baggage cars and passenger cars, is that not so?

A Not at the main station. I didn't have anything to do with mail cars, baggage cars there.

Q I didn't ask you whether you had anything to do with them, I asked you whether or not they were there?

A No. At the coal yard there were wine cars, and so forth.

Q Where were these cars located that this lieutenant told you that if you entered those freight cars you would be killed?

A That was at the freight station.

Q And how far was the freight station from the main station?

A Two to three kilometers.

Q All right, sir. Now, you testified that you always worked Sundays, is that correct?

A Yes.

Q Did you work the first day of April?

A I don't know exactly whether the 1st of April was a Sunday.

Q That was Easter Sunday. Did you work on Easter Sunday?

A No, we didn't work Easter.

Q And you didn't work on the 11th of March either, did you?

A If it was a Sunday in March we did work.

Q How do you recall that you worked every Sunday?

592
&
592a
20

A Because we didn't like it that we had to work Sundays.

PRESIDENT: Mr. Prosecutor, will you verify the year here?

Q We are talking about 1945, are we not, Mr. Wonde?

A Yes.

Q Isn't it a fact that Bongarts obtained permission from the authorities for you not to work on certain Sundays so you could wash your clothes and become deloused?

A Yes, Bongarts did that.

Q Well, what Sundays were those?

A That was in March.

Q And what Sunday in March was it?

A It must have been the middle of March, but the skilled workers had to go out.

Q Now, you say Bongarts was there every Sunday. How do you know that?

A That Sunday he had a fight with the camp leader because a high official of the Reich's railroad had stated that the prisoners would have to work that Sunday and they had to work in camp nevertheless.

Q Did you understand the question that I asked you? How do you know that Bongarts was there at work every Sunday?

A He was with me.

Q You mean you saw him and talked to him every Sunday, is that correct?

A Yes.

Q And you are certain of that?

A Yes.

Q Don't you know that during the middle of March on the Sunday that the other prisoners were able to remain in the barracks for the

592 &
592a

21

purpose of washing themselves and becoming deloused, that he did not go to work that Sunday?

A That Sunday he was with me in ~~Nurnberg~~ Nuernberg and when we returned to the camp the prisoners complained to him that they had to work on Sundays. He went to the clerk's office immediately and complained to Dettmers there that the prisoners had to work and that wasn't right for them, that they shouldn't work.

Q Now, Bongarts beat the prisoners, did he not?

A Yes.

Q Bongarts carried a stick around , in his hand too, did he not?

A Not with me.

Q I didn't say whether he beat you. I asked you, did he not carry a stick around with him?

A Not when he was with my column, then, he didn't have a club.

Q Well, your detail was out of reach, was it not?

A Yes.

Q Now, you heard, did you not, that Bongarts beat the prisoners quite frequently, is that not true?

A Very often - I can't say - but he beat.

Q And his reputation in the camp was that of being a beater, was it not?

A Yes.

Q Now, did you know all 800 prisoners that came down to ~~Nurnberg~~ Nuernberg there to work in the railroad yard?

A No.

Q So you don't know whether 800 reported in the morning and 800 returned at night or not, do you?

A There were always more in the morning; they all wanted to go to ~~Nurnberg~~ Nuernberg.

592-592a

22

Q There were always more in the morning than went home at night alive, is that not correct?

A The number was always the same. It had to be correct because if there was one less he had escaped.

Q Well, if one less had died, so long as he was accounted for it wouldn't make any differance, would it?

A I don't know about any one dying.

Q Well, do you mean to tell this court they would hold up the whole detail because one man was dead?

A No, but we prisoners would have heard about it if someone had croaked.

Q And did you also hear about it every time a man was injured on the detail?

A If it was bad, yes. Not if he had something on his fingers or anything of that sort. At one time we had an air raid and it tore one man's arm off and another an eye, and things like that get around.

Q And did the news get around every time a man was badly beaten?

A No.

Q Now, you say that you knew Schwarz at Hersbruck. Isn't it a fact that while Schwarz was there at Hersbruck they had executions?

A As long as I was there there were no executions. We surely would have heard about that.

Q Well, while you were there at Hersbruck, did you hear that Schwarz participated in executions?

A No.

Q You never heard that at any time?

A Yes. Two capoes had escaped at one time and they were caught again and they were supposed to be executed, but whether they had been executed in Hersbruck or not, I don't know. I don't recall at

592-592a

23

the present time. That happened before we arrived in Hersbruck.

Q Do you mean to tell this court, now, that you never heard of Schwarz participating in executions at Hersbruck?

A If they had been executed in Hersbruck then he must have taken part in it as camp com ander.

Q But you don't know of any executions while you were there at Hersbruck?

A No.

Q And you never heard of any, is that correct?

A No.

LT. COLONEL DENSON: No further questions.

PRESIDENT: Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY McKAY:

Q Mr. Wonde, in response to a question by the prosecutor as to Mr. Bongarts having the reputation of a beater in the camp you answered "yes". Will you explain just what Bongarts's reputation was in the camp?

A Bongarts was disliked because he had the supervision of the Nuernberg detail and whenever he came around he would shout like a bull and once in awhile give some one a slap on the ear when the work wasn't right.

Q Did you ever hear anything else about him with regard to his reputation in the camp other than what you have just described?

A Things that happened in the camp? Within the compound?

Q No. What I am referring to is the talk that occurred among the prisoners in the camp with regard to Bongarts?

A At one time they wanted to relieve him.

Q Who wanted to relieve him?

A The prisoners. The second camp eldest discussed that. "We

592-592a

24

will relieve Bongarts."

Q Was he relieved?

A No, he stayed.

Q Now you stated on cross examination that sometimes in the morning there were people who wanted to go to work. Will you explain what you meant by that?

A You could always organize something in the Nuernberg detail, something to smoke or something to eat.

Q What do you mean by "organize"?

A Whenever there had been an air raid during the night cars were thrown on the side and holes were torn into the cars at places where there was marmalade or butter or cigars or cigarettes, so that the prisoners would sneak away during the day and organize themselves.

Q How can you explain that, in view of the fact that these orders that Bongarts read to you, that plundering of railroad cars would be punished by death?

A He read it so that not everyone would take off and start stealing.

Q Well, will you explain to the court what, if anything, Mr. Bongarts did with regard to prisoners who would pilfer railroad cars?

A He gave them a few slaps on the ears and said, "This evening in the camp you will get your ass full." So the railroad man who was working there said to himself, "Well, it is all right if they make a report on that - I don't have to do anything." When they returned they did not make a report.

Q How do you know they didn't make a report.

A Because they would have hanged the man, because this order came from Berlin -- it was issued by Himmler and it was read to us.

MR. McKAY: That is all.

592-592a

25

PRESIDENT: Dr. Wacker.

DR. WACKER: No further questions.

PRESIDENT: Recross examination.

RECROSS EXAMINATION

QUESTIONS BY LT. COLONEL DENSON:

Q Why did the prisoners want to relieve Bongarts?

A He was too strict.

Q With respect to what?

A His shouting.

Q Anything else?

A And he also scolded the foremen.

Q Anything else?

A The foremen were mostly old prisoners who didn't want to take anything from him.

Q And he would beat them along with it, would he not?

A The foremen?

Q All the prisoners?

A He didn't beat all of them.

Q Well, I mean all classes of them?

A All kinds, whether he was a German or a foreigner, if he had done something he'd get it on the cheek.

Q Now, isn't it a fact, Mr. Wonde, that these prisoners were so hungry that they were willing to take a chance on being caught pilfering these railroad cars in order to satisfy their hunger?

A If there was marmalade or butter around, hundreds of pounds of it, then you would go there with your canteen cup and reach in or if there were cigarettes around. Some guards who saw it would say, "Well, let him do it."

LT. COLONEL DENSON: Now, just a minute. I object to the translation. The first word that he said was "Ja." Now, I object

592-592a

26

to the translation, may it please the court.

COURT INTERPRETER: May I ask him again?

PRESIDENT: Yes. Go ahead and verify it.

A I said, if I am working in a column, and a prisoner is always hungry, and I see marmalade, butter or cigarettes, then I will help myself to it.

Q In other words, then, those prisoners were so hungry they were willing to take their chances in order to satisfy their hunger, is that not correct?

A Yes.

LT. COLONEL DENSON: That is all.

PRESIDENT: Examination by the court.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Did you ever see Bongartz strike a prisoner with a closed fist?

A No.

Q Did you ever see him strike a prisoner with a stick?

A No.

Q Or any other instrument?

A No.

PRESIDENT: Any further questions by any member of the court?

THE WITNESS: May I add something?

PRESIDENT: Just a minute - we will give you an opportunity. Any further questions by any member of the court? Apparently not. All right - go ahead.

THE WITNESS: The detail (~~Nurnberg~~ Nuernberg) moved out in the morning in darkness and the people were counted and those who were too many were sent back, then they went to the railroad station.

592-592a

27

And in the evening we returned and went to the blocks and to bed immediately.

PRESIDENT: Now, the court does not desire a lot of additional information of that nature. What we want to know is any additional information that you may have to give to the court, any main issues with reference to Bongartz or with reference to Schwarz. If you have something to add along those lines, the court will be glad to listen.

THE WITNESS: I don't know anything about that.

PRESIDENT: Any further questions by any member of the court? Evidently not. Dr. Wacker, anything further?

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Wonde, was hunger the only motive for people to steal in Nuernberg?

A I wouldn't say that it was the hunger only because you can't say that anyone who steals cigarettes is hungry.

Q Describe a day's food received by the Nuernberg detail?

A In the morning before we marched off we got soup and at noontime on the outside we got soup again, and the breakfast portion that was carried along in the morning in boxes.

Q What did such a breakfast portion consist of?

A A double slice of bread, sometimes with butter and marmalade on it.

Q What did you get in the evening?

A Soup again, potatoes in the skin and bread and butter, sometimes, as well as marmalade.

Q How much bread a day?

A For four men one loaf of bread weighing four pounds, one pound per man.

DR. WACKER: Thank you.

592-592a

28

PRESIDENT: Recross examination.

LT. COLONEL DENSON: No further questions.

PRESIDENT: Any further questions by any member of the court? Apparently not. The court understands that the defense are finished with this witness?

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom)

PRESIDENT: The court will take a half hour recess.

(Whereupon at 1500 hours the court recessed)

592-592a

28

PRESIDENT: Recross examination.

LT. COLONEL DENSON: No further questions.

PRESIDENT: Any further questions by any member of the court? Apparently not. The court understands that the defense are finished with this witness?

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom)

PRESIDENT: The court will take a half hour recess.

(Whereupon at 1500 hours the court recessed)

(Thereupon the court reconvened at 1535 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr. Hall who is absent on business of the accused; all the accused are present with the exception of Olschewski, Oswalt, Lipinski and ~~Leesch~~ Lesch, who are ill, and Dr. Schmitz, who is conferring with counsel. The interests of those named accused are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Defense?

DR. WACKER: The witness, Lenz, now appears as Defense witness for the accused No. 5 and No. 43.

HANS FRIEDERICH LENZ, called as a witness by the Defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Lenz, what is your full name?

A Hans Friederich Lenz.

Q Where do you live?

A Muenzenberg, in Upper Hessen.

Q How old are you?

A 44 years old.

Q What is your profession?

A I am a Protestant preacher.

Q Were you a member of the Party?

A Yes.

Q During what period of time?

A 1930 to 1939.

Q Why only up until the year 1939?

A I was put out of the Party in 1939 because of a court proceeding before a special court which began in the year 1937, during which proceeding I was accused of having incited the people to political resistance.

Q Did you voluntarily resign from the Party?

A I was physically put out.

Q What did they accuse you of then?

A Since the year 1934 I took an active part in the leadership of the combined Party in Nassau-Hessen, and starting with the year 1935, when I was active in this capacity, I had to endure no end of cases, I won't repeat them all, in regard to court proceedings with special courts, and I was often arrested by the Gestapo, etc.

Q Did this movement have any connection with Pastor Niemoeller?

A I belonged to the inner circle of Pastor Niemoeller.

Q What do you mean you "belonged"? Don't you belong to it anymore?

A Yes, I still belong to it.

Q Were you ever in Hersbruck?

A Yes.

Q As what?

A As an SS 1st sergeant.

(Lenz-direct)

Q How did you become an SS 1st sergeant?

A Between 1940 and 1944 I was with the Air Information Control and at the end I was a technical sergeant. I couldn't become an officer because of my conviction by the Gestapo. As a soldier I had to go through at least four Gestapo proceedings and other kind of proceedings. As a soldier all my letters were censored.

Q How did it happen that you, nevertheless, became an SS man?

A I will go into more detail about that, it all hangs together. I made a complaint in my unit in regard to the fact that my letters were being censored because someone had told me about that, and then the leader of the unit went to the Kreisleiter in a great rage in order to abolish that. At home I have an affidavit from my former company leader in regard to --

Q Please don't go into detail there.

A Because the Kreisleiter demanded that I be transferred.

Q Pastor, I beg you not to go into detail. Wait and see whether the court later on wants you to go into that. I merely want to know, very briefly, how it came about that you became a member of the SS. Did you report voluntarily or not?

A I did not report voluntarily. The leader of the Kreis, the Kreisleiter, saw to it that I was sent from one unit to the other and finally ended up in Hersbruck as an SS man.

Q Did you tell those people at that time that you were a Pastor?

A Everybody knew that.

Q Were you already a pastor in Muenzenberg before the war?

A 1929.

Q You are still working there?

A Yes.

Q Do you take care of the community and every Sunday do you have church services?

A Yes, complete services.

Q Do the American authorities allow you to do that?

A I have been before the denazification Board.

Q How were you released from the military?

A Released from the military or the SS? I was a prisoner of war. I was released by the commandant of the prisoner of war camp in Neu-Ulm.

MR. MC KAY: May it please the court, let the record show that Mr. Hall has returned to the courtroom and Dr. Schmitz has returned to the dock.

QUESTIONS BY DR. WACKER:

Q Did you mention the fact that you had been an SS man in Hersbruck?

A Of course, you can see that in the records there.

Q When did you get to Hersbruck?

A Toward the end of August '44.

Q In August '44 who was the commandant of the outcamp, Hersbruck.

A Captain of the SS Fueckner.

Q How long was he commandant?

A I don't know when he first got the job, but I know it only lasted up until the middle of September.

Q Who took his place then as camp leader?

A Captain of the SS, Forster.

Q How long did he stay in Hersbruck?

A Until the middle of December.

(Lenz-direct)

Q Who took it over then?

A Capt. Schwarz.

Q I must ask in what year did that all take place?

A 1944.

Q Would you recognize Capt. Schwarz if you would see him again?

A Yes.

Q Please take a look around and point him out, if you see him.

DR. WACKER: The witness has identified No. 43 as Schwarz.

QUESTIONS BY DR. WACKER:

Q What were your duties in Hersbruck?

A I took care of the telephone and did clerical work in the clerk's office of the commando leader.

Q Please describe the building, the space in it and who was in there.

A That was the National Work Barracks in Hersbruck and the guards had their quarters there and there were also administrative officers there.

Q In what office did you work?

A I worked on the ground floor with the window facing the camp square.

Q Who else worked in this office?

A The leader of the commando. Whenever he was there he would sit in there. He wasn't there all the time.

Q What special duties did you have?

A When the mail arrived either I or the work detail leader would open up the mail, and I had to see to it that the mail would be distributed. And when written work would come back I had to see to it that they were signed and then I had to send them on, either with mail or with a messenger.

Q You said that the commando leader sat in the same office. Whom do you mean by "commando leader"?

A At first, Forster, and then Schwarz.

Q After Schwarz had taken over the commando from Forster, did any change take place in the leadership of the camp?

A I must tell you that that was such a fundamental change that you cannot say it with a few words.

Q Pastor, we don't want any details about what happened during the time of Forster, but please touch very briefly upon the differences in leadership when Forster was there and when Schwarz was there.

A The attitude which Forster took towards human beings as a whole and especially towards human beings there, behind the barbed wire, was entirely different from the attitude Schwarz had. Forster had four years with the SS and all he saw when he looked at these people were numbers. He didn't even see that, he hardly ever spoke. He was a man who was completely closed up with himself and we could see by every move that he made that he had a bad conscience. And whenever he said anything, all he said were negative expressions.

Q Were people beaten when Forster was there?

A When Forster was there? Of course.

Q How was it when Schwarz was there?

A People were still beaten when Schwarz was there but that was entirely different because when Forster was there Forster himself beat people, and so when Forster was there, anyone else who wanted to beat could go ahead and beat.

Q How was it when Schwarz was there?

A Schwarz never beat anyone. I don't base that only on what I myself saw, which was limited, but also upon the talk which went around among the prisoners and among the people.

Q Do you know anything about the orders which Schwarz gave out in regard to beating?

A I can't remember anything particular but I can give you some examples.

Q Let me ask it this way. When he was there was beating allowed or not?

A It was forbidden.

Q What kind of examples can you give?

A I remember two examples. I could dig out some more for you but I know two very distinctly. One day, at the entrance to the camp, three prisoners were subjected to chicanery, and beaten. I threw open the window as I often did in such cases when I noticed that, and must say here that whenever any mistreatment went on I never kept quiet. I shouted out of the window to stop this beating. "You know that according to camp regulations beating is forbidden." They obeyed that although I noticed they laughed at me. I looked out of the window later on and I saw that a guard, an elderly gentleman, was making this gesture. (indicating) I opened up the window again and looked out, and I saw that the beating was presumably being continued behind the partition of the Work Commitment Office. During the time when I stopped looking out of the window, turned around, and looked back into the interior of the office, Schwarz had entered the office. I discussed this incident with

Mr. Schwarz here. Mr. Schwarz cannot remember the details as well as I can. I have them all very distinctly in my memory. I had something in my hand, something or other. In my excitement I threw whatever I had in my hand, a piece of paper or something, on the next desk and I stamped on the ground with my foot and I said, "I won't do anymore work here because people are being beaten." I must add something here. When the Waffen SS took over, that was retroactive back to the 1st of September, I put in a protest to Koegel, the commandant of Flossenburg; Forster, the adjutant of Flossenburg, Baumgartner, and others were present. At that time Schwarz wasn't there yet. In the course of this argument where I said that I didn't want to be treated any differently from my fellow pastors who didn't belong to the SS, I was told I would not be compelled to do anything against my conscience.

Q Pastor, please tell us, as briefly as possible, what Schwarz did in regard to this beating?

A That is why I made this rebellion in the office. I was protesting against the beating.

Q What did Schwarz do?

A I remember it exactly, how it occurred. He made a gesture like this (indicating) "For God's sake, tell me this."

Q What did he mean by that?

A He meant that I should tell him when anyone was beaten.

Q Did he intervene against beatings?

A I told Schwarz about the people involved here and either right away or later on, he went over there and straightened the matter out.

Q Do you know about any other times when Schwarz intervened when he found out that someone was being beaten?

A Yes, I also have examples for that. A foreman had been reported because he had seriously mistreated some prisoners. You will have to ask Mr. Schwarz whether that occurred during his time or not. I don't know whether that was reported officially in writing or whether that was reported orally by my friend.

PRESIDENT: Just a minute. If this didn't occur during the time that Schwarz was the camp commandant, the court does not want to waste time on it.

QUESTIONS BY DR. WACKER:

Q Please forget about this incident, Pastor. Was there a blackboard in Hersbruck?

A Yes.

Q What was posted there, on that board?

A Things which were of interest to the company.

Q For example?

A The work plan of the day, orders, punishments.

Q What kind of punishments?

A Misdemeanors during guard duty and other military matters, and also incidents were reported when guards were punished because of what they did to prisoners.

Q Do you know of any times when Schwarz intervened against guards who committed some misdemeanors against a prisoner?

A I heard that but I can't remember it in accurate detail, whether someone was directly punished for that sort of thing. But I know other instances because it was dictated

to me and I can tell you more accurately about that.

Q What kind of cases were they?

A They were cases which were so severe, so big, they couldn't be taken care of by the leader of the company.

Q Whom do you mean when you say "company leader"?

A Mr. Schwarz.

Q Please describe what kind of cases they were?

A There was a sergeant of the SS, I don't know his name anymore, a guard, had beaten a prisoner with the butt of his rifle so severely that he died. I don't know whether he died on the spot and was carried in as dead or whether he was carried in as wounded and died later. At any rate he was dead afterward. Schwarz reported this sergeant of the SS to Flossenburg for punishment and sent along a report of the incident.

Q Is that the only case you know about?

A I remember another incident which took place just about the same period of time. A guard had broken the rump bone, buttocks bone, of a prisoner because the prisoner had refused to give him cigarettes the guard had asked for.

Q What happened in this case?

A Schwarz re orted that also, to Flossenburg.

Q Pastor, those are severe cases. Weren't lighter cases reported to Mr. Schwarz in regard to beatings?

A That's probably the case. I can't remember them very well, though, because only the more sev re cases remain in your memory.

Q Please tell us what you personally had to do with these more severe cases.

A I had to write the dictation, as I said, the reports which were going to Flossenburg.

Q Did you know about any cases of beating in the camp of Hersbruck?

A Of course, when Forster was there, and when Schwarz was there these things which I've just discussed occurred outside of the camp. It could have happened, I can't remember anymore so accurately.

Q What was the cause of the differences between the period of time when Forster was there and the period of time when Schwarz was there.

A That was because of the difference between the two commando leaders. Forster himself beat people; Schwarz never touched a prisoner.

Q If a prisoner were beaten could he make a complaint about it?

A Certainly, because prisoners made complaints about other things.

Q Do you know anything about Russians being mistreated, an incident that had some connection with Dept. Siehmanns?

A I don't understand that very well because I didn't know the individual work details so well. Is that this presumable Russian revolt?

Q Yes. Do you know anything about that?

A Yes.

Q What was it?

A One day the word went around that a group of people, probably all Russians although I'm not sure, had organized a revolt.

Q Do you know that these Russians were beaten in the clerk's office? Do you know that or don't you?

A These Russians were never in the clerk's office of the commando leader. At the most they could only have been in the prisoner clerk's office.

Q Do you know whether these Russians were beaten or not?

A No, I can't tell you that exactly.

Q When did the whole incident take place?

A If I draw the right conclusions, I can probably tell you accurately. If I draw the wrong conclusions, please correct me. I will have to take more time in telling that. One day a prisoner was apprehended. He had been taking gold teeth out of the mouths of other prisoners and using them for private deals. He was arrested. At the same time I presumably believe that a great theft activity was discovered in the camp. I consciously say "presumably", and the three main perpetrators, three main accused, were three members of the camp police and in connection with this incident a whole series of prisoners were involved. And I heard that Forster himself with his own hand beat this man who had stolen the gold teeth, and the whole group of people who were involved in that - 30 or 40 prisoners.

Q Did the whole incident take place when Forster was there?

A Yes.

Q Then we do not want to know anything more about it.

A These Russians who had planned the revolt, and this whole group of thieves who had taken the gold teeth were loaded on a truck and sent to Flossenburg. That all must have happened when Forster was there for the following reas ns. The whole thing moved me very much and I purposely went down the whole length of the hallway and looked out to see this column of prisoners before they shoved off because I believed the worst was in store for those men.

Q Pastor, what was the mortality rate of the prisoners in Hersbruck?

A That was bad, that always increased. At the beginning it was small, at the end it was great.

PRESIDENT: Let us verify the time, Doctor.

DR. WACKER: I am just going to establish the time.

QUESTIONS BY DR. WACKER:

Q How were the camp conditions when Schwarz took over?

A Schwarz came in the middle of December to Hersbruck.

Q What year?

A '44.

Q How was the mortality rate then?

A Just a second -- I believe that it was 300 or 400 a month there at the end, in December.

Q Did Schwarz make calculations, reckonings, in regard to the mortality rate, or didn't he?

A Yes.

Q What did he do?

A Schwarz had ordered that accurate records be kept, diaries.

Q Was this diary, this record, kept?

A Yes, very accurately.

Q Were there any other books kept, any other clerical work in that regard?

A The official records were given to the officials in Hersbruck by the month and later on when they became too great in number, they were sent to an official post in Flossenburg.

Q There wasn't anything else done besides that?

A Yes, there was. In the books which were kept, the cause of death, the means of death and any particular incidents in regard to the number of deaths was kept as well as

the type of weather that existed at that time, and then I believe that Mr. Schwarz ordered that these entries be sorted out and evaluated.

Q Are these written documents still at our disposal?

A I made these lists, these evaluations, together with a mathmetician who came from the camp. We did it according to tables and scales, or how should I express it, and when the documents were destroyed, I took these calculations out of the document and saved them.

MR. MC KAY: Miss Reporter, we hand you three documents which have been produced in open court by the witness now on the stand, and ask you to mark them Defense Exhibits No. 39, 40 and 41 for identification.

(The documents referred to were marked Defense Exhibits No. 39, 40 and 41 for identification.)

QUESTIONS BY DR. WACKER:

Q Pastor, I am handing you now Exhibits 39, 40 and 41 for identification and ask you what they represent? I ask you what they are.

A That is the statistical evaluation and calculation of these records. Not exactly, they are calculations of these records and also taken from the previous period of time. By looking at the top of the page here you can tell about what kind of work took place in January. And the statistics include the period of time from June to December '44, and I draw the conclusion that the work was finished in '45.

PRESIDENT: Mr. Prosecutor, do you desire an opportunity to check them over?

PROSECUTION: Yes.

PRESIDENT: The court will take a short recess in place.

the type of weather that existed at that time, and then I believe that Mr. Schwarz ordered that these entries be sorted out and evaluated.

Q Are these written documents still at our disposal?

A I made these lists, these evaluations, together with a mathmetician who came from the camp. We did it according to tables and scales, or how should I express it, and when the documents were destroyed, I took these calculations out of the document and saved them.

MR. MC KAY: Miss Reporter, we hand you three documents which have been produced in open court by the witness now on the stand, and ask you to mark them Defense Exhibits No. 39, 40 and 41 for identification.

(The documents referred to were marked Defense Exhibits No. 39, 40 and 41 for identification.)

QUESTIONS BY DR. WACKER:

Q Pastor, I am handing you now Exhibits 39, 40 and 41 for identification and ask you what they represent? I ask you what they are.

A That is the statistical evaluation and calculation of these records. Not exactly, they are calculations of these records and also taken from the previous period of time. By looking at the top of the page here you can tell about what kind of work took place in January. And the statistics include the period of time from June to December '44, and I draw the conclusion that the work was finished in '45.

PRESIDENT: Mr. Prosecutor, do you desire an opportunity to check them over?

PROSECUTION: Yes.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order. All right, proceed.

QUESTIONS BY DR. WACKER:

Q Pastor, please tell the court briefly, what you can tell by looking at these documents?

A There is a list here which represents a period of time from June to December.

Q Is that Exhibit No. 41?

A Yes.

Q What year?

A '44. There's a course which represents the number of prisoners and then there's a curve which represents the number of sick prisoners, and then there's another curve which represents the number of dead people.

Q What colors do these lines have?

A It is noted at the bottom in a legend.

Q What does Exhibit 40 represent? As short as possible.

A If I see it correctly, it represents the same thing in a different form, but it is divided up according to nationalities.

Q And what does Exhibit 30 represent?

A Exhibits 39 and 40 represent practically the same thing, as a whole, except that Exhibit 40 is divided up according to nationalities and 39 according to months.

DR. WACKER: I now offer Exhibits 39, 40 and 41 as evidence.

PROSECUTION: I object to them, may it please the court. They have not been properly identified.

MR. MC KAY: Will you let me help Dr. Wacker a moment?

PRESIDENT: Mr. McKay.

QUESTIONS BY MR. MC KAY:

Q Pastor Lenz, who prepared these diagrams that have been marked for identification as Exhibits 39, 40 and 41?

A I did that with the help of prisoners and clerks.

Q From what did you obtain the information which is contained in these diagrams?

A I got it from the prisoners clerk's office, I assume from the card index files and from the death book.

Q Where were these records located?

A In the prisoners clerk's office.

Q In what camp?

A Hersbruck.

Q You stated that prisoners helped you prepare these. Did they work under your supervision?

A No.

Q How did you obtain possession of these diagrams?

A The preliminary work, the excerpts, from the records and from the death books, were done when I wasn't there. I gave an order that that be done.

Q Did you actually supervise the preparation of these charts?

A Yes, the final preparation took place in my presence under my supervision.

Q Did you compare these charts with the records and information from which the figures were obtained, to check the accuracy of these charts?

A No.

Q How did you obtain possession of these charts?

A I already had them and when Mr. Schwarz asked for them I presented them to him.

PROSECUTION: I withdraw my objection.

MR. MC KAY: At this time the defense offers in evidence Defense Exhibits which have been marked 39, 40 and 41 for identification, which have been identified by this witness as being charts prepared under his supervision from records in Hersbruck.

PROSECUTION: I object to that basis. I don't mind him introducing the charts for what they purport to be, but this business about being prepared under his supervision, I don't believe all that is true according to his testimony. In other words, let them be introduced for what the court wishes to grant them.

PRESIDENT: Mr. McKay, do you wish to amplify the statement?

MR. MC KAY: At this time I withdraw the original part of my offer and wish to state that we wish to offer Defense Exhibits --

PRESIDENT: I think the court will give you an opportunity to confer with Dr. Wacker. The court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order.

MR. MC KAY: The Defense offers in evidence Defense Exhibits 39, 40 and 41 in connection with the testimony of this witness.

PRESIDENT: You offer them in evidence?

MR. MC KAY: Yes.

(Lenz-direct)

PRESIDENT: Any objection on the part of the Prosecution?

PROSECUTION: No objection.

PRESIDENT: Subject to objection on the part of any member of the court -- Do you have something, Dr. Wacker?

DR. WACKER: No, I just want to say that I am not trying to prove that the contents of these documents are correct. I am just trying to prove that Schwarz actually did something in that regard.

PRESIDENT: Subject to objection on the part of any member of the court, Defense Exhibits 39, 40 and 41 are received by the court in evidence and will be given such weight as the court sees fit.

(The documents heretofore marked Defense Exhibits 39, 40 and 41 for identification were received in evidence as Defense Exhibits No. 39, 40 and 41, are attached hereto and made a part of the record.)

MR. MC KAY: If it please the court, these diagrams are in German and we will have translations of them prepared for the benefit of the court and introduce them later.

PRESIDENT: In other words, in the form of Defense Exhibits 39 a, 40 a and 41 a?

MR. MC KAY: Yes, sir.

PRESIDENT: Proceed, Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Pastor, what was the reason they made these lists which have just been turned over to the court?

A The purpose was to establish the reasons why this mortality rate was high, in order to combat it.

Q What was determined for the reason for the high mortality rate in Hersbruck?

(Lenz-direct)

A I have here the original from the records, and upon that I made up a summary, a facet of all of the curves, and when these records were turned over, I turned over this summary which I have in the hand or else I read it out loud.

Q What did Schwarz report at that time?

A Among other things it is noted here as a title "Remarks for the Graphs - Three factors are primarily responsible for keeping the mortality rate so high: a. The influence of the season, dampness, cold, dirty camp, which is shown by the sick list of the individual commandos." I must explain that. The people who did earth work had a much higher mortality rate and sick rate, which you can't tell by looking at these lists. "b. The fact that people who came from the southern nations had very little resistance, Frenchmen, 33%; Italians, 33%, and others in comparison to that, Germans 8%." But that also comes in the fact that the few Germans who were with us at that time had positions as capos and other positions. "Russians, 10%; Czechs, 15%, including some Slavs and people who lived in the mountains, 13%. And the intermediate figures, the middle figures, Poles, 22%; Polish Jews, 9%, and in parenthesis, (in arrest a rather short period of time.") The Hungarians and Hungarian Jews, no decision was made about them." That is a note I made. The Hungarians arrived not until December. They arrived with the thousand men, and for that reason they aren't included in these statistics.

Q Pastor, we don't want all the details about that. Please tell us in as much brevity as possible, the reason for this high mortality rate.

(Lenz-direct)

A Third point, too little sleep, too much time in waiting and the long way they had to go and return from their place of work.

Q Was that the last point?

A May I make a short remark on that?

Q Please.

A Two things are not shown in the graphs. This is something which took place in the months following the period of time when these graphs were made and they aren't included in the graphs. First of all, more and more transports kept arriving with people whose strength was already exhausted, and I can prove that with regard to the Hungarians. From 1000 Hungarians I believe that one-fourth of them were incapable of working in a period of four weeks, and the other point which is not touched upon is the following which can't be put in these graphs. That is the state of distress in which the souls of these human beings were put and this moral distress which went on inside these people had bad effects upon the physical strength of the people and I have determined that by carrying on many conversations about it.

Q Do you want to say something else?

A They just didn't know how things would end with them.

Q Pastor, what did Schwarz do after he had made these figures?

A I know that after these documents had been prepared there were conversations carried on which I heard and they didn't only give themselves all kind of trouble to find out about these things, but they also tried to take pains to

stop it. I will pick several points out.

Q Pastor, please don't pick anything out. Tell us all about it.

A The muddy camp and the muddy roll call square was done away with by putting in a layer of gravel and sand and perhaps this work had already begun when Forster was there but they weren't able to carry it out because they had a lack of material and there weren't enough transportation means at their disposal. And Schwarz took a great deal of trouble in order to make these works go on. I know he took a great deal of interest in construction work. I knew that because of telephone conversations which I overheard and discussions which I overheard in the office, which I didn't take part in, and I know that this state of muddiness in camp was done away with. For example, I noticed that when the others started off to work in the morning they would have to go through this mud and the whole day long they would have to walk around with dirty, wet, feet and that, of course, was the reason for many sicknesses. When they got rid of this muddy condition, at any rate, they helped to keep the feet dry, they did away with wet feet to some extent.

Q What other measures did Schwarz take?

A There was one thing which at the beginning was very difficult. That is, whenever a prisoner was missing, whenever the roll call didn't jibe, all the prisoners had to fall in at the roll call square and they did that in order to fill in the complete camp strength, and I had the impression that many of these roll calls lasted too long because the people involved had too little experience in that regard.

Schwarz intervened there against that and demanded, which also became the case, that these roll calls be carried out in the shortest possible time and they were carried out at the end very short. In the beginning of the time I could tell by looking out of the window of my office where I was working when the prisoners came back from the work, they were very tired and had to stand a long time on the roll call square, exposed to any weather and storms, so that entire blocks would either lie down on the ground or fall down on the ground.

Q How was that carried out when Schwarz was in the saddle?

A That worked out very well. He saw to it that the roll calls were carried out very briefly, in the shortest period of time, so that the people could get to bed early. That was the main catch. The people didn't get any sleep before. I believe that most of the prisoners, I'm not sure but I believe that more than half of them, had to get up for the morning shift at 3:30 in the morning.

Q What happened in regard to working conditions, if anything happened at all?

A May I say something here now in regard to sleep?

PRESIDENT: Just a minute. Make it short, to the point.

A (Witness) The people were constantly disturbed in their sleep because the shifts were being changed and it was seen to it then, that people were given quarters according to their shifts.

Q Come now, back to the conditions of work.

A I can't tell you much detail about that but I can tell you something.

PROSECUTION: May it please the court, I would like to have it directed that he not confer with the defense.

PRESIDENT: That is understood. The present witness has been on the stand and he will not be interrogated by any defense counsel. You fully understand?

WITNESS: Yes, sir.

PRESIDENT: Court will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 13 November 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: Einzelheiten: .....

Second Charge: Zweite Anklage: .....

Particulars: Einzelheiten: .....

The above charges are referred for trial to the *Summary / *Intermediate Military Court to be held / *General

Die Verhandlung wird vor dem *Einfachen / *Mittleren Militärgerichte / *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges;
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

MILITARY GOVERNMENT COURT

CASE RECORD.

Case No. FLOSSENBURG

Pages 6529 - 6617, Incl.

*~~Summary~~
*~~Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 13 November 194 6

Prosecutor

Defence Counsel

Interpreter

Reporter

Members of Court: WITNESSES:

HANS FRIEDERICH LENZ

RICHARD KULLA

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

CA/GI 13

Legal Form No. 8
First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

Case No. FLOSSENBURG

Pages 6529 - 6617, Incl.

*~~Summary~~
*~~Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 13 November 194 6

Prosecutor

Defence Counsel

Interpreter

Reporter

Members of Court: WITNESSES:

HANS FRIEDERICH LENZ

RICHARD KULLA

Accused FRIEDRICH BECKER, ET AL

Address

Sex

Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

13 November 1946 Pages 6529 - 6617 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
HANS FRIEDRICH LENZ	6529	6543	6573 6593 6595 6600	6578 6597	6580 6599
RICHARD KULKA	6602	6606	6610		

EXHIBITS

No.	Description.	Marked	Rec'd in Evidence
D-42	Mimeographed Bulletin and Printed Circular	6611	
D-43	Mimeographed Bulletin and Printed Circular	6611	
D-44	Printed Chart	6611	
D-45	Printed Circular (3 pages)	6611	
D-46	Printed Circular (3 pages)	6611	
D-47	Printed Circular (3 pages)	6611	6617

(

(Thereupon the court received at 2:1 hours)

PRESIDENT: The court will come to order.

DEFENSE: Let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Inter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson and Mr. Hall, who are absent on business of the court. All the accused are present with the exception of ~~Lewis~~ Olschewski, Oswalt, Lo~~x~~sch, and Eingbusch who are ill and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court must caution this witness simply to answer the questions of the prosecutor and the defense counsel as the case may be and not to go too much in detail. If you desire to make an explanation, request that of the court. All right, proceed, Dr. Becker.

HANS [illegible] SCHWARZ, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified through an interpreter as follows:

DIRECT EXAMINATION (Cont'd)

[illegible] BECKER:

Pastor, we were talking about what Schwarz did in order to reduce the high mortality rate. We stopped at the point where we were talking about the condition of work. What did Schwarz do in that regard?

A As far as I could overhear that, he continually tried to get rid of some settlers with people from the construction department and tried to achieve shorter working periods as much as he could, if I remember correctly.

(Cross-Direct)

Q Why didn't Schwarz reduce the working time?

A That wasn't his affair.

Q Why wasn't that his affair?

A That was up to the leader of the SS staff and the construction headquarters.

Q Could Schwarz reduce the working hours?

A Not on his own, no, in no regard.

Q What did he try to do?

A There were always negotiations going on with the leaders of the building construction and the SS staff and I know that Schwarz was there almost daily to negotiate with those people.

Q Did you hear any conference in which the high mortality rate in Nordhausen was discussed?

A I didn't hear any official discussions, no, but I heard conversations going on in the office where I was sitting.

Q Who were involved in these conversations?

A That is hard to say now. Of course the doctors carried on conversations and the commando leaders. Civilians and soldiers always came from the construction headquarters and people from the SS staff but they were not official conversations.

Q Did Schwarz do anything else in order to reduce the mortality rate? We mentioned the fact yesterday that the various shifts were assigned individual quarters so that when they relieved each other they would disturb the people who were sleeping and they put a stone floor on the roll call square that was a very difficult piece of work and they needed a lot of people to do that and a lot of material.

PRESIDENT: Just a minute. Let's stop the repetition, doctor.

(Lenz-Direct)

QUESTIONS BY DR MACHER:

Q Pastor, what do you understand by the expression, The Staff of the SS Leaders?

A Officially I don't know this whole build up and this whole installation, and I didn't find out anything about that here, but that was probably the people who had charge of this construction work.

Q What was the attitude of Schwarz as commandant of the out camp?

A He was not an independent man with his out camp. He took orders from the commandant of the main camp, Flossenburg. I could find out about that when I was working and because, for instance, there weren't any personal data or personal documents of the people who worked with us in our office.

Q Pastor, were there any executions carried out at Hersbruck during the time Schwarz was there?

A Yes.

Q How many?

A I can't tell you for sure. I estimate one or two.

Q Pastor, how were the executions carried out?

A I can't tell you anything that I saw with my own eyes because it was a principle of mine not to take part in any executions. I was never invited to do so and I never was ordered to do so.

Q What do you know of these executions?

A I know they were carried out by the Gestapo.

Q Do you know any more details about the manner in which executions were carried out in Hersbruck?

A All I know is what I heard.

Q What did you hear?

A I heard that the people were hanged.

Q Who hanged them?

A The Gestapo.

Q Do you mean that the Gestapo ordered these executions or do you mean someone from the Gestapo was present at these executions?

A There was always someone from the Gestapo present.

Q Did you see the party in question?

A Usually, yes.

Q Do you know who it was?

A Yes.

Q What was his name?

A Must I say that?

PRESIDENT: Yes, that will be absolutely necessary. Understand this court is here to find out the facts.

WITNESS: Ehmert, probably.

Q Do you know what kind of cases were involved?

A Yes, they were always the same kind of cases. I didn't see any actual regulations, any actual documents on that, but we constantly heard and saw what general directions these executions were taking and it always involved someone trying to escape in connection with this secret building construction and danger of betrayal. I must say something else here: As far as I could see, that wouldn't be enough in the last period of time to execute anyone. It always had been some criminal charge such as burglary.

PRESIDENT: Pastor, the court feels it necessary to advise you about a certain matter. The court does not expect you to testify relative to any matters which might be in the nature of a confession between you and some other party or a confidential matter, but the court does expect you to testify to things that you know

yourself, that you have seen or else that you have heard. With the exception stated about the matter of a confession or else something of a strictly confidential nature between you, and, you might say, some client of yours, or some member of your congregation. Proceed, Dr. Wacker.

QUESTIONS BY DR WACKER:

Q Where do you get the idea that a criminal action must also be added to this attempted escape in or or to have an execution carried out or pronounced?

A I say that because it happened that prisoners who escaped and were caught after were not executed.

Q What happened to these prisoners who had merely escaped?

A They were at first in the hands of the Gestapo and at the end in Nuernberg and between those two times at Hersbruck for a period, but always as prisoners of the Gestapo.

Q You say that they were prisoners of the Gestapo. What connection did Schwarz or the camp of Hersbruck have with those prisoners then?

A None at all, because from then on the prisoners weren't counted in the total strength of the camp. Only as far as food was concerned.

Q How does it happen that you say the prisoner was no longer counted in the entire strength of the camp when he had formerly been a prisoner?

A I didn't have anything to do with drawing up the strength report of the camp, but in the evening I would hear the reports when the strength of the camp was reported and on those occasions, for instance, I would hear someone reporting two thousand and so many minus one who escaped, makes so many. But when someone had escaped and

was captured then they did not report so and so many, plus one more.

Q Did the prisoner who had been captured escaping and had been condemned remain in the custody of the Gestapo up until his execution?

A Yes.

Q And what did Schwarz have to do with passing judgment on such a person and what did he have to do with his execution?

A He didn't really have anything to do with that.

Q In what capacity did the entire camp of Hersbruck figure in this picture?

A Some of the time as a place where the prisoner at the Gestapo stayed, and then also as an execution place. Often but not always.

Q Did Schwarz have any order to give in that regard or could he stop anything that was going on?

PROSECUTION: Objection, may it please the court, on the ground it calls for a conclusion by this witness and pervades the province of the court.

PRESIDENT: The objection is sustained.

QUESTIONS BY DR WAGNER:

Q During the time when executions took place when Schwarz was there, do you know whether any executions took place as a result of reports which went through his hands?

A The reports were made from various spots. The people at the place of work would make reports and the head office of the Construction Department would make reports and the leaders of the camp also had to report.

Q Where did these reports go?

A They went to the police and the Gestapo and also to Flossenburg in connection with strength reports.

Q Did the camp of Herzbruck undertake any steps itself to catch prisoners again or did they leave that matter entirely in the hands of the police or the Gestapo?

A Whenever a prisoner escaped from his place of work, the guards were put in to chase him to find out where he was. I didn't ever see that but I heard about it.

Q How was that carried out then? Did the guards stay out searching for a considerable period of time, or what happened?

A I can't give you any detail on that.

Q Pastor, we are coming now to the evacuation of the camp. Before the camp was evacuated, did you see any kind of preparations in regard to evacuation of the camp?

A Yes.

Q What were they?

A There were constantly discussions going on.

Q Between whom?

A I can't tell you what they talked about when the leadership of the construction department talked with the people in the staff of the SS leaders, but I can tell you what went on in the office where I was. All kinds of things were discussed there.

Q Pastor, please tell us who took part in these discussions and what the content of these discussions was.

A There were many telephone conversations and there were many conversations going on between many individuals and the last period of time I remember there was an evening discussion.

Q Who took part in this discussion?

A I doubt if I can name them all, but at any rate there were a large number of people there. Schwarz was there. I

took notes on what was being said. I was there at least most of the time. The doctor was there and certainly First Sergeant of the SS, Graebert, as representative of administrative matters. I have to assume that he was there and the work commitment officer was there and the roll call leader was there.

Q What was the result of this conversation? What was the contents of the discussion?

A The organization of the march away from the camp.

Q What was said in regard to food?

A You have to ask the competent people about that. I don't know exactly. I know there were some discussions made later and there was some food which came in from Ansbach. A railroad car with meat had been smashed and the food had been brought. At any rate, they set up various supply depots along the road of march and it was taken care of that supplies would be sent back and forth to the column from Herzbruck.

Q Did they discuss how the prisoners should leave the camp? Were they all to leave together in one body, or in individual groups?

A All the people were divided up into five groups.

Q Did they mention how these groups would shove off? Did they talk about the sick people?

A There was one transport of sick people driven to Dachau and the people who still were sick in the camp or got sick during the last fourteen days, they were driven along in cars. With my own hands I helped put up the last sick people on a car.

Q Did they mention the fact what would happen to people who got sick underway or couldn't continue the march?

A They had already fixed up some wagons for that purpose. They were supposed to pick up the people and take them along.

Q What prisoners were to be shot to death? What did you hear about that, or don't you just know about that?

A Nothing was said about that. I will have to take a detour here.

Q As short as possible.

A All the prisoners were worried that they would come to a bad end there. Not because they thought that the leader of Camp Hersbruck would do anything bad because the prisoners had a certain confidence to the leader of Hersbruck, but nobody was sure what kind of orders might have arrived, and so I decided in connection with a number of other prisoners whose names I can give you that I would betray the secret to them if any such orders did turn up, even though I would have to risk my own life to do it, but I also asked them not to do any dumb tricks and not to try to escape or anything like that, and so now you can understand that I paid attention like a lynx to see if any orders of that nature came.

Q Did you have to communicate anything to these prisoners or did you have to warn them in any way?

A I didn't have the slightest provocation to tell them that it was at all dangerous.

Q Did you, yourself, take part in the evacuation march

A I had charge of the baggage of officers and non-commissioned officers and so I didn't have any direct contact with the march, but I consciously got close to the column which was elongating itself all the time.

Q Did you see any bodies during this march as far as you made the march?

A I didn't see any dead body.

Q Did you see any sick people anywhere?

A Yes.

Q Where?

A I saw some in Schmidmuehlen. If I'm not wrong that was the second stopping place. Some sick people stayed back there. I heard that there were one hundred people, and then also in Hainmuecker I saw that in more detail. I went into the garden near the barn there where hundreds of prisoners were lying sick and that is when I experienced this outburst. "Sick prisoners ought to stay back there". I didn't know whether there were 30 or 50 people there. I couldn't see them because of the straw and when one or two people objected to my intervening there then I let the people alone and I saw that the native population was taking care of them anyway.

PRESIDENT: I wish you would clear up one matter. The witness has testified somothing about seeing hundreds of sick. We would like to know just where that was as there was also a mention of 30 or 40.

DR WACKER: I believe that the witness hasn't finished. He mentioned about sick people in Schmidmuehlen and Hainmuecker. The rest of the story is coming now.

PRESIDENT: This is apparently also after he left Schmidmuehlen. The court would like to have you clarify that matter, the question of seeing two or three hundred sick, and then later on about seeing thirty or forty.

QUESTIONS BY DR WACKER:

Q You said that you had seen hundreds of sick people in Schmidmuehlen and you saw 30 to 50 in Hainmuecker. Did you see any more sick people?

A In Saal. 400 people were left behind. May I add an additional sentence here: I know about the negotiations which were undertaken to bring these sick people to Dachau and I believe they were brought by rail to Dachau.

(Lenz-Direct)

Q Did Schwarz take any pains in regard to these sick people?

A Yes. I was able to decide that as far as I could give him underway.

Q Do you know anything about an air attack?

A I only saw the result of one air raid.

Q What were the results?

A South of the Danube River we were driving on our wagon with our baggage and we drove past some dead bodies.

Q Did you see wounded people also?

PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection Sustained.

QUESTION BY DR WACKER:

Q What did you see?

A We were driving down the street, a broad street with trees on each side of it and in our truck, if I remember correctly, and down on the right slope of the street on the open meadow there were dead bodies lying, and pieces of clothing and wreckage, and then I found out, I don't know whether I found it out right away or later, that a strafing attack had been carried out against a prisoner column and since the prisoners were covered by the trees which were standing there, the fliers probably didn't know who they were. As a rule, the fliers didn't attack columns of prisoners.

Q Pastor, the main thing we are interested in is to find out what Schwarz had to do with this air raid or the results of the air raid.

A I can't tell you anything about that because after we had left Saal I only saw Schwarz very briefly on two occasions in Bad Toelz and in Dachau perhaps for just a second.

Q Do you know whether any escapes were undertaken during the evacuation march?

A At the end people escaped in droves. We, ourselves, let the people escape as we got near Dachau.

Q Pastor, do you have anything else to tell us about the evacuation march, anything of interest?

A I would have to have a direct question for that.

Q Pastor, we come now back to the point which we discussed yesterday regarding beatings which went on in the camp. Did cases of beatings occur in the camp about which Schwarz knew, without his doing anything about it?

A I must say no to that.

DR. ACKER: No more questions.

PRESIDENT: Mr. McKay.

MR MCKAY: I will ask a few question on behalf of the accused Number five.

QUESTIONS BY MR MCKAY:

Q Pastor Lenz, during the time you were a clerk for Mr. Schwarz, will you explain to the court what the situation was with respect to reports coming into your office with regard to beatings and mistreatments of prisoners from the various details and from the camp itself?

A We already talked about that yesterday. I gave a number of examples and there was one important incident which I failed to mention or didn't have time to mention. At any rate, reports like that were made to Flossenburg if they were of a serious nature.

(Lenz-Direct)

Q Pastor Lenz, I would like to have you explain to the court just what, if any reports you ever received with regard to mistreatment of prisoners on Detail Nuernberg while you were in Hersbruck.

A Reports came, but I believe that they were connected with plundering--something like that.

Q During the time that you were a clerk in Mr. Schwarz's office, did you ever hear of a man by the name of Bongartz?

A Recently I read the name Bongartz in the newspapers in connection with the Flossenburg case. Several other names were mentioned along with Bongartz.

PRESIDENT: Just a minute. It isn't necessary to mention anything like that.

A I know now that Bongartz was a Capo in Nuernberg and since that time I had forgotten about that, but I know it now.

Q Will you explain to the court what, if any, reports ever passed through your office with respect to Mr. Bongartz's treatment of prisoners?

A I cannot remember that any reports arrived in connection with Bongartz mistreating anybody.

Q Will you explain to the court what the situation would have been had prisoners complained of mistreatment by Bongartz as far as reports are concerned?

A I can't remember exactly, but Bongartz would have heard about that and in severe cases a report would have been made to higher authorities because parallel cases are already at hand.

Q Do you think that you could recognize Mr. Bongartz if you saw him again?

A Yes.

Q Will you look over the men seated behind me in the dock and see if you can recognize the man you knew of as Bongartz?

A Actually I would not be able to recognize Bongartz but because of the discussions we carried on in the evening I know that is Bongartz there. (Indicating).

Q Will you identify his number?

A The number is turned around. Five.

Q After you had seen Mr. Bongartz here as a result of your conference, did you remember seeing him in the camp itself?

PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection sustained.

QUESTIONS BY MR MCKAY:

Q Will you explain to the court, Pastor Lenz, whether or not you ever actually saw Mr. Bongartz himself in Hersbruck while you were there?

A Yes.

Q And can you give the court an idea of the number of times you saw him?

A I could see him when he left with his column and I took a look.

Q Will you explain to the court what, if any, personal conversation you ever had with Mr. Bongartz?

PROSECUTION: I object to that, may it please the court. When he says explain, it assumes he had some conversation. He never testified he ever talked to him in his life.

PRESIDENT: Objection sustained.

QUESTIONS BY MR MCRAY:

Q I will rephrase my question. Pastor Lenz, I would like to have you explain to the court what, if any, conversation you had with Mr. Bongartz in Hersbruck, or whether you had any conversation with him at all.

A I can't remember anything. It is possible but I can't remember it. It could have been because I remember he greeted me and I asked him who he was.

Q Do you know how long Mr. Bongartz was on the Nuernberg detail?

A I don't know how long the Nuernberg command was there. You will have to ask Mr. Schwarz. Perhaps a few weeks.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q How many prisoners were there in this last column that left Hersbruck on the evacuation march?

A Each column had 500 men.

Q Did you accompany the column all the way to Dachau?

A No.

Q Do you know whether or not the column ever arrived at Dachau?

A The last column did not reach Dachau.

Q When did you leave the marching column?

A I left on the 14th and on the 15th, Sunday morning, I went away from Bohmischmuehlen and I didn't see

the column after that at all. If I'm not wrong I believe the last column was lying in front of Schmidmuehlen. One correction here: The fifth column I saw for the last time after Hauberg. I passed this column there. I saw some wagons.

Q Were you accompanying the last column?

A No.

Q Were you attached to any column?

A No.

Q Did you talk to Dr. Wacker last night after you got off the stand?

A No, not at all since yesterday evening because that was forbidden.

Q Did you talk to Schwarz last night?

A No.

Q Have you discussed with Schwarz what you would testify here on this stand?

A I heard what things were going to be discussed here.

Q From whom did you hear that?

A Here in a discussion in the presence of the defense counsel and the accused.

Q In other words, you sat in a conference with Schwarz and Dr. Wacker, is that correct?

A Yes, but perhaps I may be allowed to repeat one of the first sentences which Schwarz told me.

Q You just answer my questions please. Did Dr. Wacker and Schwarz tell you what you were to testify here?

(Lenz-Cross)

A No, Schwarz said [illegible], "I [illegible] a man of character and I [illegible] you that we can [illegible] you to say only the pure truth and that is all we ask of you".

Q Did you discuss the matter of executions with Schwarz?

A No, the only thing [illegible] was mentioned [illegible] how many it might be.

Q And did Schwarz tell you it was [illegible] or two?

A I heard that and that agreed with my own opinion.

Q You answer my questions, please. Did you hear that from Schwarz?

A That was my own opinion and I had it verified.

Q In other words, Schwarz verified it, is that right?

A Yes, but they were the numbers which he had from me.

Q Did Schwarz also verify the fact that the Gestapo carried out these executions at Mersbruck?

A I know that myself.

Q You never saw the Gestapo carry out any executions at Mersbruck, did you?

A I never was present, no, but--

Q --so it was from Schwarz then--

PRESIDENT: I don't believe the witness had answered the question. Didn't he add "but" there?

PROSECUTION: Continue with "but".

A The fact that the Gestapo carried out these executions could be seen by the fact that the Gestapo appeared in person and in the first period of time they would bring prisoners in cars from Nuernberg. I saw that myself on at least two occasions.

PRESIDENT: The court will take a half hour recess.

(Thereupon the court recessed at 10[illegible] hours).

(Whereupon the court reconvened at 1040 hours)

PRESIDENT: Court will come to order.

PROSECUTOR: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Minter who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Mr. Hall and Mr. Engelhorn, who are absent on business of the accused; all the accused are present with the exception of [illegible], [illegible], [illegible] and Hasfelut and Olschewski, who are ill and whose interests are being taken care of by counsel.

The witness is reminded he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination, Colonel [illegible].

MAX [illegible], called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter, as follows:

CROSS EXAMINATION (continued)

[illegible] THE WITNESS:

Q. Doctor, how many [illegible] were permanently stationed at Dachau?

A. I don't know about that number.

Q. I did not ask you about that number.

(Lenz-cross)

A I was asked how many Gestapo was in Hersbruck. I don't know anything about that.

Q I will ask you another question along that line. How many men did the Gestapo have permanently stationed in Hersbruck? Not prisoners.

A At the end there were probably 600 guards.

Q Those guards were all representatives of the Gestapo?

A I can't answer that at all. That is unknown to me.

Q You stated, as I recall in your direct testimony, that the Gestapo had men there at Hersbruck, you saw them there.

A No. I said that this Emmert would come from Nuernberg and I must say that in the Fall, around there sometime, I saw an SS officer there. I don't know whether he was a member of the Gestapo or not. I only know that when Forster was in office he had read the sentence at the execution.

Q Can you tell the court whether or not any of these Gestapo men that you have described as having seen were stationed at Hersbruck as a part of the permanent complement of the camp?

A No, they were not. I know that for certain.

Q In other words, there were no Gestapo personnel who were stationed permanently at Hersbruck, is that correct?

A No, no Gestapo.

Q So that the prisoners who were brought there were in the custody of the camp, were they not?

A Yes, but they were responsible to Nuernberg and they were prisoners of the Gestapo in Nuernberg, definitely.

Q But their safekeeping was entrusted to the personnel in Hora Pack, is that not true?

A Yes.

Q Pastor, I hand you the chart which has been marked Defense Exhibit No. 41 and I will ask you to state what that red line represents.

A It's red line indicates the total strength of the prisoners after the transferrals had been made.

Q That is from the month of June 1944 up to and including the last day of December 1944, is that correct?

A Yes, it's even printed here, the 31st of December.

Q Please tell the court what this purple or blue line represents.

A Blue is the number of dead.

Q And green represents what?

A The green represents the number of sick people.

Q Is it correct that according to this chart on the 1st day of December 1944 there were 505 dead, or does that figure 506 represent the number of dead for the month of November?

A For the month of November.

Q The number 450 then represents the number of dead for the month of December 1944, is that correct?

A Yes.

Q How many died during the month of January 1945?

A None, because sick people had left.

(Lorz-cross)

Q How many sick people left during the month of January 1945?

A In January, perhaps none at all.

Q When was it that there was this exodus of sick from Hersbruck?

A Just before Christmas.

PRESIDENT: Just a minute, Mr. Prosecutor. The court would like to find out from the Defense Counsel whether the English translations of Defense Exhibits 39, 40 and 41 are available?

MR. MC KAY: They are not available right now.

PRESIDENT: They should be so the court could follow the testimony more closely.

PROSECUTION: May it please the court, I do not want the burden to revolve on the defense. I asked for the possession of those charts last night and for that reason we were not able to have the translations made today.

PRESIDENT: All right, carry on.

QUESTIONS BY PROSECUTION:

Q You say that the number of dead during the month of January was less? Could you tell the court approximately what, in your best judgment, was the figure that represented the number of dead for the month of January 1945?

A Let's say, 300.

Q Will you tell the court approximately how many died during the month of February 1945?

A Starting with that period of time it increased.

Q What was that figure, please, in your judgment?

A 500.

Q That was the number of dead, approximately Pastor, for the month of March 1945?

A Also more.

Q Approximately how many more?

A 700, 600.

Q Is it nearer 700 than 600?

A Perhaps 700.

Q And during the first eight days of April, can you give the court approximately how many died at that time?

A In that period of time sick people also left, but I believe that very few died in April.

Q Was there any other exodus of the sick from Herebruck between the group that left just before Christmas, 1944 and April, 1945?

A I believe that a transport of people who had fleck fever came to Flossenburg but I don't know whether that was in Schwarz's time or not.

Q I didn't ask you that question. I asked you this, Pastor, as to whether there was any other exodus of sick prisoners from Herebruck between the time that group left in December, 1944 and April, 1945.

A I can't remember. As that was a matter of individual cases then that never crossed my attention.

Q Then there was no marching group that left between the 1st of January and the 1st of April, 1945, is that right?

(Lenz-Cross)

A That is what you might as well say, yes.

Q Now, when these transports came into Mersbruck with dead prisoners on it, were those prisoners who were already dead counted as part of those who had died in Mersbruck?

A Yes, I believe so.

Q You had a large transport that came into Mersbruck right after the first of the year of 1945, did you not?

A Yes.

Q And approximately how many were dead in that transport?

A Are we talking about the one from Gross Rosen?

Q That is correct.

A Perhaps forty.

Q Not more than that?

A I don't believe so. However, we heard that various bodies, various dead people, had been unloaded on trucks out of the transport on the way. Variou stations along the way had reported that dead bodies were lying there, but that was only individual cases.

Q That was not very many, was it?

A Not many were reported, no.

Q You mentioned yesterday, Pastor, about the Hungarians that came there and the Hungarian Je s, and you stated as I recall, that it was difficult to make any estimate as to the percentage that died, is that correct?

A No, I wanted to say by that that t is transport of Hungarians which came perhaps in December, couldn't be put into these charts because it came too late to be put in.

(Lenz-Cross)

Q Tell the court what happened to that group of Hungarians that came at that time?

A The sick people came to the hospital and people also, a large number, came to the convalescent ward and people who were on't in need of going to the convalescent ward, I don't know whether they had a rest period or not, but I assumed they did.

Q Isn't it a fact that the average length of life of a Jew in Mersbruck was approximately six weeks?

A Who says that?

Q Isn't that true? That is what I am trying to find out. How could you say it?

A You can't say it that way. There were people who could stand everything. There were prisoners who got sick and would get well again.

Q Wasn't it characteristic of the Jews that they weren't able to stand it? Is that what I am to understand?

A According to my statistics the percentage of the Jews is better.

Q How long did a Jew live in Mersbruck?

A First of all, I can't answer that. There aren't any figures on that. I just can't answer it.

Q Why was it that you stated yesterday that nothing had been decided, Pastor, with regard to the Hungarians or the Hungarian Jews?

A Because the transport arrived in December and the period of time which is covered by those charts runs from June to December.

(Lenz-Gross)

Q So that they were just not considered in making up those charts, is that correct?

A They weren't in this document, no. Just a second. No. Those who died in this transport in December are in this mortality number, but in this resume, in this summary, they weren't included because we couldn't perhaps get a clear picture about them and we didn't want to make a mistake.

Q On Defense's Exhibit Number 40, you report the Hungarians, do you not?

A I will have to take a look. It has been so long I'm not sure about it any more. That is a moot question. I will have to leave that undecided without checking up on it. They could have been Hungarians from that transport or they could be earlier Hungarians, and please tell the court that I am being asked about a matter which occurred a year and a half ago, and what is here on this piece of paper are remarks which cover the things drawn up in these graphs, lines, and I was attempting to establish the various nationalities, how the various nationalities endured the conditions and a transport such as Hungarians who had been there only fourteen days couldn't very well figure in on that. There wasn't enough time.

Q Pastor, I notice in all your conclusions concerning the causes of the high mortality there you have said nothing about the food. Is that correct?

A I believe that we talked about the matter of food yesterday. I can't tell you in detail about that

(Lens-Cross)

[illegible] I didn't have any input into that [illegible], but [illegible] [illegible] [illegible]

Q How many hours a day were these prisoners working under charge?

A I can't give you any detail about that because I had nothing to do with the work commitment but I can give you a general answer to that question perhaps, but I can't bind myself to my answer of course. I know exactly, although you might correct me on that, that the people who worked on the mountain construction, hill construction, worked in three shifts and so it is my opinion that each shift had eight hours.

Q That is based on the fact that this one particular detail had three shifts, is that not true?

A Yes, other commandos might have worked longer perhaps. I have a vague recollection that work hours were reduced. You will have to ask other witnesses about that who can tell you more exactly.

Q When you made these conclusions is it a fact you based it on the period of time of eight hours as being too long?

A You mean for this work year? The normal period of working is eight hours anyway.

Q Why was it in your recommendations that the work was too long?

A If people had to work longer and people who were in captivity and in distress and had poor nourishment and bad food, and I don't know what all, then eight hours could be too much.

Q And eight hours was too much then wasn't it?

A Looking at it from my standpoint, yes.

Q And 12 hours was even worse, is that not correct?

A Of course, but I don't know whether there

were over any twelve hours. Perhaps in the beginning. I can't give you any exact answer.

Q. Don't you know that the months of February on through April the Muenzberg detail with eight hundred men went out to work for 14 hours?

A. That could be. That would have to be determined.

Q. Don't you know that as a fact from having been there at Gerabruck and observing these details as they were formed and as they were rounded out?

A. Gentlemen, I will have to make a remark here.

Q. Just answer my question, please, Doctor.

A. That happened a year and a half ago. The memory of that is rather vague. I know that the detail went out to work in the morning and came back at night. I can't give you any exact hours for that. It is possible they worked for twelve hours, depending on the situation, but I can't tell you that for sure.

PRESIDENT: The court feels it necessary to tell the witness if he doesn't know, so state and if he doesn't remember, so state.

WITNESS: I don't know.

PRESIDENT: By making a statement of that nature you put down on the proceedings.

WITNESS: Good, I will speak more briefly.

CROSS-EXAMINATION:

Q. Now, Doctor, everything that you testified to concerning behavior and all activities at Gerabruck took place more than a year and a half ago, did it not?

A. Yes.

(Long-drawn)

[illegible]nd you are not very certain about the matters that you have testified concerning Schwarz, is that correct?

A. In regard to the work and work commitment, yes, because I didn't have anything to do with those matters.

Q. Now, you testified yesterday that the Polish Jews were for a short period of time in arrest. Do you recall that?

A. I don't remember that. I know it by looking at this piece of paper and this remark where it is said a transport and rest for Jews isn't from my hand but probably came from the notes and numbers of of the Prisoner clerks office.

Q. You state that it isn't from you hand and you drew it up that the Polish Jews were a short period of time in arrest, is that correct?

A. I drew this up, yes. I wrote that down. I don't know in connection with what, but I must say as I said yesterday that the preliminary work which led up to this remark I got from someone else.

Q. Do you have any idea today what that remark means?

A. No, I have broken my head trying to think that out. I don't know why it is standing there. If it weren't put there I wouldn't have known about it at all and I can't figure out any reason why this sentence stands here, why they had a short period of arrest, the Polish Jews.

(Lonz-Cross)

Q. In order to clarify your testimony, for the purpose of the court will you please tell the court just how much you really know about and how much of that you are surmising based on what somebody else has told you?

A. The numbers came from another party. The lines I made with my own hand or had someone make them with my direct order and the conclusions in regard to what could have been done in order to change matters were drawn out by me and presented. I must mention here that the resume wasn't made because someone told me to make it, but I did it on my own because I wanted to preserve these facts.

Q. This wasn't done at the instigation of Schwarz but because you wanted to preserve the facts, is that not correct?

A. That isn't right. This work was ordered, was asked to be done but these conclusions I threw in extra, I added extra. The commando leader could have thrown in his own conclusions himself according to the facts without my having done this, but I just wanted to tell him.

Q. Did you discuss these conclusions with Schwarz?

A. I handed them over to him.

Q. Did you discuss them with Schwarz?

A. That really wasn't my business.

Q. I didn't ask you that, Pastor. Please answer my question.

A. I handed them over to him or read them aloud to him. I don't believe so. Perhaps we exchanged a few sentences. That is probable. It wasn't my official

capacity to take part in a conversation there.

Q Did Schwarz do anything about the overcrowding that existed in Hersbruck?

A Yes.

Q What did he do?

A There were constant efforts going on, great efforts to build new barracks.

Q How many barracks were in existence in December, 1944, Pastor?

A I don't know.

Q And how many were in existence in April, 1945, Pastor?

A I can't give you any testimony in that regard. I never counted them. I wasn't in the camp very often. It was none of my business.

Q As a matter of fact, don't you know in the period of time from December, 1944 to April, 1945, there was not a single new barracks added to Hersbruck?

A That certainly surprises me. I surely have to doubt that.

Q How many were added then, Pastor?

A I didn't have anything to do with those things. I am sorry. I would like to testify here but I just can't. I know that there were constant negotiations going on. That the piece of ground selected wasn't fit and transports were always arriving and interfering with work.

(Lenz-Gross)

Q Just answer my question, please. You were able to observe the buildings that existed in Herzbruck in December, 1944, were you not?

A When you were standing in front of the camp or going along outside the camp, you couldn't see all the buildings in the camp and you couldn't count them.

Q Do you mean to tell the court you didn't see at any time any changes that were made in the buildings at Herzbruck during the time you were there?

A I can remember seeing half built barracks when I went through the camp then.

Q When did you go through this camp, Pastor?

A I kept going through the camp less and less. Sometimes I wouldn't go through for weeks and weeks.

Q And why was that?

A I didn't want to have anything to do with those things.

Q With what things, Pastor?

A Well, let's say a concentration camp.

Q What was it about the concentration camp you didn't want to have anything to do with?

A I had made a protest with the commandant of Flossenburg when the camp was taken over and I was the only one who was not obligated to the Waffen SS. When the people were obligated or sworn in I just stayed away. I looked upon my work there as a service in the name of Christ.

(Lonz-Cross)

Q On what date did these people were sworn into the SS, Pastor?

A In September, 1944, and the date was made retroactive to the 1st of September, 1944.

Q And prior to that time what were they?

A They were emergency militia and had to do with Air Force emergency centers; members of the Army, and of course there were also SS people among them.

Q Getting back to the concentration camp. You say you wanted to go in there less and less. Isn't the reason you didn't want to go in there any more than you did was because of the beatings, starvings, and mistreatment that took place in that camp?

A No, because in the first period of time when a lot of people were being beaten I often went in there and wherever anyone was being beaten I opened my mouth. I repeatedly intervened. In fact, I had a lot of trouble with prisoners and with guards. Later on when I would go to the camp once in awhile I never had to interfere. It seemed to me these things didn't take place quite so often. I didn't see them except for the cases which I observed from my window.

Q In other words, you didn't go into the camp because the conditions were much better, is that it, Pastor?

A Yes.

(Lenz-Cross)

Q In these executions that took place in Herstruck, Schwarz participated in them, did he not?

A He went over there.

Q And when you say that the executions were carried out by the Gestapo, that is just something that you and Schwarz and an attorney decided on. Is that not true?

A Yes, the Gestapo carried them out.

Q Will you answer my question, please?

A In conversation--

Q Just answer the question, please.

A Here or there? We could have spoken about that but that doesn't change the facts any.

Q You don't know what the facts were, do you?

A I know that the Gestapo officials came.

Q But you don't know that they were there at the execution because you were not there, is that not true?

A I never was present in any single execution and if I had ever been ordered to go to an execution I would have appealed to the promise that had been made to me that I wouldn't have to do anything that went against my conscience.

Q All you know about the Gestapo carrying out the executions is what Schwarz and Dr Stacker told you, is that not true?

PRESIDENT: Dr. Stacker.

DR STACKER: I don't know whether I as an attorney should stand for a question like that. I know according to German law I never would stand for it.

It sounds as though I as an attorney were trying to make this pastor commit perjury. I have nothing against the witness answering this question, but I do insist that this type of question doesn't get away with impunity from now on.

PRESIDENT: Mr. Prosecutor, the court directs you leave personalities out of this unless you have something definite to put before the court along that line.

PROSECUTION: I believe from what the witness has already testified about another matter that has transpired here, I am certainly legally entitled to ask him what conversations he has had; and whether his memory has been refreshed by Dr. Wacker or Schwarz or anybody else. It is perfectly proper and I would be glad to show the court the law on it. The court will recall on direct testimony, in regard to identification of Bongartz, he said he didn't know anything about Bongartz until Bongartz had been pointed out to him here.

PRESIDENT: The directions of the court are plain. Leave the matter of personalities of the defense out of the situation.

PROSECUTION: May it please the court, I would just like to get it perfectly straight so I won't transcend the ruling of the court. In other words, is it forbidden for me to ask this witness whether he has discussed this matter, whether he has been told by Dr. Wacker or by Schwarz concerning the questions I am now asking him.

PRESIDENT: The court feels, Mr. Prosecutor, the manner in which the question was put is a reflection on Dr. Becker. That is what the court wants to endeavor to avoid.

DR BECKER: I must repeat again with emphasis that I have nothing against this question being asked the witness and the witness answering the question, but all this is going into the record and I run a danger that Germans will read this record, and as far as German law is concerned, it is a reflection against me and if it is proven against me I would get at least eight months sentence for it, and I can't let him get away with impunity like that.

PROSECUTION: That is all the more reason I should be able to ask the question then.

PRESIDENT: Continue with the question, Mr. Prosecution. The court wants to avoid the matter of personalities, both on the part of the prosecution as well as on the part of the defense.

PROSECUTION: That is just what I want to find out. By personalities, do you mean don't call him by name, is that it?

PRESIDENT: I don't want any reflection pertaining to any defense counsel. The same thing applies to the prosecution.

PROSECUTION: It wouldn't be any reflection, may it please the court, unless he said yes. That is the only way it could reflect on him. I don't want to do anything in the world to transcend the ruling of the court. That is why I am asking these questions.

(Lenz-Cross)

[illegible] Mr. Prosecutor, [illegible] simply [illegible] to avoid [illegible] personalities.

[illegible] Yes, sir. I again ask the question, do you mean by calling names?

[illegible] That the court is referring to is a reflection, a statement [illegible] cause a reflection on one of the defense counsel. All right, proceed.

[illegible] If you I don't understand exactly [illegible] rulings, [illegible] can or cannot answer the question.

[illegible] The court will give you an opportunity to rephrase the question, but in doing so the court [illegible] you to avoid any reflection on the defense counsel.

[illegible] Repeat the question, please.

(Thereupon the reporter read the question as follows: All you also [illegible] about the Gestapo carrying out the executions is what Schwarz and Dr Lucker told you, is that not true?

[illegible] No, that is not true.

[illegible] You must notify this particular witness [illegible] any objection or any argument, he will refrain from answering.

[illegible] I beg your pardon, sir. Was there an objection?

[illegible] I am simply [illegible] generally. Whenever there is an objection or any argument [illegible] will refrain from answering. Continue, Mr. Prosecutor.

(Lehman-Floss)

QUESTIONS BY PROSECUTION:

Q Pastor, tell the court who it was that told you those executions were carried out by the Gestapo.

A Should I tell you that now?

Q Certainly.

A Everybody assumed that in the camp. That is the way the talk was.

Q You say everybody assumed that. Did anybody know about it?

A No, Emmert came on before him, this other officer, and they would go to the execution square which I couldn't see and that is where the executions took place.

PRESIDENT: The court will take a short recess.

(Whereupon the court took a short recess in place).

QUESTIONS BY PROSECUTION:

Q Pastor, you have stated that you learned of these executions in the camp by common knowledge, is that correct?

A No, when I asked about them I only asked one single question.

Q And what was that question?

A Did the poor devil actually die bravely?

Q Is it not a fact that the real reason you hated to go into the camp toward the end was because of the terrible conditions you found there in the camp?

MR MCKAY: The question is objected to as being repetitious.

(Lenz-Cross)

PROSECUTION: I would like to be heard, if it please the court.

PRESIDENT: Go ahead, make it brief.

PROSECUTION: I asked the other question there concerning injuries as to beatings and mistreatment. There are many other conditions that existed besides beatings and mistreatment.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 1130 hours).

(Whereupon the court was opened at 1145 hours).

PRESIDENT: The court will come to order.

PROSECUTION: Let the record show that all the personnel who were present before the closing of the court are now present.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is overruled. Will the reporter read the last question, please.

(Whereupon the reporter read the last question as follows: Is it not a fact that the real reason you hated to go into the camp toward the end was because of the terrible conditions you found there in the camp?

WITNESS: There are two reasons. One of these reasons has not been discussed very distinctly. In the beginning the reason that I went to the camp more often was because my place of work, my office, up until Forster's time was inside the camp and therefore every day I would have to cross the roll call square to get back and forth to this office. And when I took this way I would often have to bother about things which officially didn't concern me but with which I had to intervene because of my conscience. One of the

first official acts which Forster took was to throw me and all my things from the camp into another barracks. In the later time although it was not forbidden for me to go into the camp I would go into the camp once in awhile under some pretext or other in order to speak to someone or other and so on, and in the later period of time I could have continued to take those walks and I could have done it so that the commando leader wouldn't have noticed it unless someone had betrayed that to him. However, in the first period of time I had the impression that I was being shadowed, but I nevertheless would have continued taking these walks, of course with great caution. And at the end of the period, and this throws a light back to the previous conditions, the Education Officer in the Unit called me the "Wicked Spirit of the Unit" but I must emphasize that it wasn't necessary for me to go into camp in the later period of time because the conditions were more or less brought into order and that is proved by what was formerly said.

CROSS-EXAMINATION BY PROSECUTION:

Q Are you through?

A But although I didn't continue to take these walks into camp very much, I still didn't lose contact with what was going on because I carried on private conversations with people who had come up to my private room.

Q Will you please answer the question?

(Lenz-Cross)

A which question?

Q The one I asked you.

A I plead and that you repeat the question.

Q Is it not a fact, and please answer yes or no, isn't the real reason you didn't continue to go into the camp as often as in the past, was because of the terrible condition in the camp?

A The conditions in the camp got better. That is why I went less to the camp.

[illegible] The court will adjourn until 1:30 this afternoon.

(Whereupon the court adjourned until 1:30 hours, 13 November 1946.)

(Lang-Cross)

Camp Dachau, Germany
November 13, 1946

Ta-596-11/13-IB-1
Floss.

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, may the record show that all the personnel of the court are present, and the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Pinter who are absent on business of the prosecution, all the personnel of the defense are present with the exception of Colonel Wilson, Mr. Hall and Mr. O'Connor who are absent on business of the accused, and all of the accused are present with the exception of Olschewski, Oswalt and Lorsch who are ill, and Schwanner who is conferring with counsel. The interests of those named accused absent are being taken care of by their counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom.

PRESIDENT: Continuation of cross examination, Colonel Denson?

HANS LENZ, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION:

Q Now Pastor, from January 1, 1945 on through the month of April prisoners received official punishment in Hersbruck, did they not?

A Sufficient punishment?

Q Official punishment. If a prisoner committed any serious act, if he destroyed any objects, then that would be reported

Ta-596-11/13-Ib-2
Floss.

and he would receive 25 blows or 50 blows, or whatever number of blows that had been allotted for that particular offense, is that not true?

A That isn't right.

Q Well, what is right?

A I must draw a difference here between Forster and Schwarz.

Q Just confine your answer please, Pastor, to the time from January 1945 to the end of April 1945.

A I can remember a few isolated cases where five or ten were given, and I must say that on these occasions--understand me correctly--I was glad that this report wasn't passed on to higher authorities--don't get me wrong--

PRESIDENT: Just a moment Pastor, do not go into so much detail in answering these questions. If the defense counsel wants to go into such matters at a later period, he will have an opportunity to do that. You will endeavor to be more concise in your statements. Proceed, Mr. Denson.

QUESTIONS BY PROSECUTION:

Q Now, it is a fact then that prisoners did receive these beatings between January 1, 1945 and April 1945?

A I can remember some isolated cases where punishments were given.

Q And Schwarz was commandant of the camp at that time, is that not true?

A Yes.

Q Also at that time they still had roll calls, did they not?

A Yes; I believe so.

(Lenz - Cross)

Ta-596-11/13-IB-3
Floss.

Q Now, did you get as far as Ofendorf near Regensburg at the time of the evacuation?

A I don't understand. Ofendorf? I don't know that. As far as Kallmuenz, and the most southern point would probably be Heinsacker, and then over toward Pielenhofen. I don't know the names of the individual villages which lay in between.

Q You know nothing then of the fate of the prisoners that left Hersbruck in columns 1, 2, 3 and 4?

A Yes, I do. I must make a short explanation.

PRESIDENT: No, just hold that explanation.

THE WITNESS: Otherwise I would be misunderstood.

PRESIDENT: You will have an opportunity later on if the court sees fit or if the defense counsel sees fit.

QUESTIONS BY PROSECUTION:

Q Do you know, Pastor, of the column that went by Ofendorf near Regensburg?

A I don't know where Ofendorf is located.

Q It is near Regensburg?

A What column is that supposed to be?

Q Well, do you know of any column that went there?

A I don't know.

Q Now, did I understand you correctly to state that the only question you ever asked concerning these prisoners being executed was whether or not the prisoner died bravely?

A That was the question which I really always asked, and sometimes I would also ask on those occasions if he said anything--his final words.

Q Did you ever ask whether or not he had received the last rites, anything of that nature?

Ta-596-11/13-IB-4
Floss.

A No, but the last question which I asked had as its purpose to find out whether he had died with any sort of comfort or not.

Q You never asked whether or not he had been administered any religious rites of any kind, is that right Pastor?

A That was never the case.

Q I see. You still had the right to ask as a minister at that time, did you not?

A No, but nevertheless I still worked as a guardian of souls, as a Pastor.

Q But you were not interested in the state of that man's soul, but only that he died bravely, is that correct?

A No, I really didn't have any access to him.

PROSECUTION: No further questions.

PRESIDENT: Redirect examination? Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Pastor, in regard to the executions, you have spoken on various occasions about a certain man, Immert. Did you actually see him with your own eyes?

A Yes.

Q Where?

A Either in the yard or in the office.

Q What do you mean, in the office? Did he ever come into the office where you and Schwarz were sitting?

A Yes, he also came in there.

Q What did he say when he came in?

A He had already reported by telephone that an execution would take place; and in regard to what he said when he was in the

(Lenz - Redirect)

office when I was with him alone on occasions, and the commando leader was in another room, the commando leader would have to be gotten and brought in and would intervene for certain people.

Q Why did you intervene with him and not with Schwarz?

A It wouldn't have had any purpose to ask Schwarz in matters like that.

Q Why not?

A As I already said, the Gestapo had all the power over these prisoners.

Q Can you give us any clue as to whether or not these executions were carried out as a result of sentences which had been passed?

A At least on one occasion I saw a paper laying on the table which I scanned very quickly with my eyes. It was a document which had come from Berlin. It was signed either by Fumert or by the other Gestapo officer from Berlin or by the official security office.

DR. WACKER: I do not know whether that was accurately translated. I ask that the witness be allowed to give his answer again.

PRESIDENT: You question the translation, Dr. Wacker?

DR. WACKER: Yes, I have to.

PRESIDENT: The answer will be repeated by the witness.

A It was a large piece of paper which perhaps didn't come from Berlin directly but came by telegraph and was written down in ~~Nuremberg~~ Nuremberg. I don't know the exact text. I was very interested to look at it and see. I already said I had at least one opportunity to take a look at it. I don't know the exact text but I know the contents roughly. And so it said: Upon order of the

(Lenz - Redirect)

National Leader of the SS--or the National Office of Security. Then the name was mentioned. Then: Because of danger of betrayal or espionage in connection with escaping. After that came the sentence to death, and then was awarded either execution or special treatment--I don't know which.

Q Who had signed this document?

A Perhaps not Mr. Emmert. Perhaps the Gestapo official or the official of justice in Nuremberg.

Q I am now coming to another point--beatings. This morning in response to questions by the prosecution you used the expressions "earlier" and "later". What did you mean by that?

A I wanted to differentiate between two periods of time, when Schwarz was in office and when Forster was in office.

Q Please establish accurately which period of time you mean in connection with Forster and which period in connection with Schwarz?

A If you want me to say that briefly then I will say that ungovernable caprice reigned when Forster was in office. In order to characterize that with one word Forster, for instance, would say publicly in front of all the prisoners, "if only they would all crap out", and I repeatedly contradicted him there.

Q Pastor, we do not want to know anything more about Forster. Please talk about Schwarz.

A I can summarize now in regard to Schwarz what I attempted to say with all my remarks previously. Schwarz gave pains to bring order in these matters. He couldn't change the thing as a whole, but in various ways could and he tried to do away with this caprice. I believe that I am here voluntarily.

(Lenz - Redirect)

and if I am here voluntarily I must say in order to give justice to truth—Schwarz did those things in order to make the conditions better.

Q You spoke about beatings which took place when Schwarz was in office. Please go into more detail about that matter.

A I already mentioned a case where the sergeant of the SS beat a prisoner with the butt of his rifle. I, of course, don't know the name of the detail that the prisoner worked on, but I know that the prisoner died. Whether he did right or not I don't know. I don't know the name of the prisoner either.

Q Pastor, I am not referring to cases which were not later on reported to Flossenburg, but referring to cases which actually took place and were settled inside camp. Who did the beatings? Whom do you mean?

A That's what I am asking you.

Q In answer to a question of the prosecutor you said five or ten blows were given out in the camp. What kind of incidents were involved there?

A To preserve order and discipline in such a camp where certain conditions reigned; for example, prisoners would take their cooking utensils and use them as a night pot, or they would relieve themselves in barracks, and they kept on doing that in spite of the fact that they were repeatedly reported—then such a punishment would enter the picture. And then I heard a story—I don't know whether it's right or not—one day there was barracks which was completely installated with beds and mattresses, that is to say, straw mattresses, and then during the night all of the mattresses

or at least many of the mattresses which hadn't yet been used were smeared with excrement. That is the way I heard it, but I don't know whether that happened under Forster or Schwarz.

Q Pastor, I don't want you to go into detail about that. I want you to tell, if you know, what steps Schwarz took if he found out about any such goings on?

A That varied. Many of the slips of paper flew into the waste paper basket and a small number were reciprocated with punishment, but I can't remember many of them. Whereas Forster in such a case would say, "he will get his ass full" and lynch justice reigned—that is, only beatings; whereas Schwarz in such a case would write with his own hand on a piece of paper "five" or "ten", but I can't remember that twenty-five were ever given.

Q Was that piece of paper sufficient or was the prisoner interrogated?

A These things then took place in camp. I can't remember that all in detail. I assumed that he was interrogated.

Q In view of the fact that we have talked about executions, I ask you now whether any people were shot to death in Hersbruck?

A I never heard anything of that nature, but may I make a small digression here? No.

Q Now, coming back to the evacuation march, can you tell us which marching columns arrived in Dachau and which did not?

A Since I know that column 5 stopped and stayed in Schmidtmuehlen and it was taken over there by the American troops, since I definitely saw column 4 and 3 underway, and perhaps column 2 also, I must assume that 1 to 4 arrived in Dachau, although I wasn't present there.

(Lenz - Redirect)

PRESIDENT: Pastor, the court wants you to avoid these assumptions. The court is anxious to find out just what you know about these things, or what you have heard, but avoid making assumptions.

DR. WACKER: No more questions.

PRESIDENT: Mr. McKay?

MR. McKAY: I have one question.

QUESTIONS BY MR. McKAY:

Q You stated under interrogation by the prosecution that Dr. Wacker and Mr. Schwarz had been present during your interrogation. Now I want to know whether Bongartz was interrogated by Dr. Wacker.

A Here in the evening?

Q Yes.

A We were separated.

Q Did Bongartz actually participate in the conversations that you had with Mr. Schwarz and Dr. Wacker?

A No, we sat back there (Indicating).

Q Now during the time that you talked with me, was Mr. Bongartz present?

A With whom?

Q With me--Mr. McKay.

A No, not up there.

PRESIDENT: Recross examination?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Can you explain to the court please, why it is that you are able to remember one of these alleged extortion orders and cannot tell the court the number of buildings, if there were any, that

were added to Auschwitz between January and February?

A How should I say it. I didn't have anything at all to do with the construction of barracks, and if I ever paid attention to things which were none of my business, then I only did it because I had a special interest in them.

Q Was it any of your business concerning this execution order?

A No.

Q Then you had nothing to do with the execution order and you had nothing to do with the building, is that correct?

A No.

Q You can tell us about an execution order, but you cannot tell us about the buildings?

A May I tell you why I know that one thing better than the other.

Q Isn't it a fact that you remember the things that you want to remember and you have forgotten the things that you do not want to remember?

MR. McKAY: That question is objected to as argumentative in form.

THE WITNESS: May I make answer to it?

PRESIDENT: Objection overruled. I caution this witness not to speak out of turn.

QUESTIONS BY PROSECUTION:

Q Answer the question please, yes or no, because it is either a fact or it is not.

DR. WACHER: That is a contradiction to Mr. McKay.

(Lens - Recross)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

DR. WACKER: I withdraw my objection.

PRESIDENT: Proceed, Mr. Denson.

QUESTIONS BY PROSECUTION:

Q Is it not a fact, Pastor, that you have forgotten the things that you do not want to remember and you remember those things that you wish?

A No, I must deny that.

PROSECUTION: That is all.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Now Mr. Lens, just why were you sent to Hersbruck?

A I was a technical sergeant with the Air Communication Service, for four years with the Air Communication Service, and still had to carry on my duties as a Pastor after hours.

Q Then the court understands you were sent there as an SS sergeant, is that correct?

A The Kreisleiter commanded that I be transferred and in the course of my transfers I went to the following places: Hagnau, Juetterbog, etc.

Q That is enough. Just why was it that you were not allowed to continue with your profession, that is, of an ordained minister, and that you were required to serve in the SS?

A We were ordered to go to Hersbruck, 40 or 50 km. from Juetterbog.

(Lens - Court)

Floss.

Q Was that the usual procedure, that ordained ministers were required to serve in the SS as ordinary soldiers?

A That certainly happened.

Q Was that the usual procedure?

A I can't really answer it like that, but there were isolated cases.

Q You just answer the question. You have testified to the effect that these executions at Hersbruck were carried out by the Gestapo?

A Yes.

Q You mean by that that the executions were actually performed by the Gestapo?

A At the beginning there was somebody who came along in an automobile especially for that purpose.

Q Now the court is referring to the time when Schwarz was in command of Hersbruck, no other time. You testified to the effect that these executions were carried out by the Gestapo and the court wants to know just what you mean by that.

A I didn't read any orders or any directives in that regard but the word was always going around that the Gestapo did that.

Q Just a moment. Do you know yourself whether or not the Gestapo actually carried out these executions?

A That is the way we heard it.

Q You do not know yourself; you just heard that; is that the idea now?

A Yes, the whole picture fitted together. The representatives of the Gestapo were there. I couldn't assume anything different.

(Lenz - Kurt)

Q What do you mean by "the representatives"? How many actually came down for these executions?

A Either Mr. Eumert--and I can't tell you exactly whether Mr. Eumert also came later on when the Gestapo officer was there.

Q Well, can you tell the court definitely whether or not the Gestapo actually carried out these executions or shootings themselves?

A They were not shot to death, that is, executed by musketry. They were all carried out by hanging.

Q What the court wants to find out is whether or not these Gestapo men actually conducted these executions?

A The first case, yes. Perhaps also the following cases. I mean when Forster was in office. Later on probably not.

Q Now you say probably not. That is an assumption, is it not?

A Because I wasn't present myself.

Q Now Pastor, just confine yourself right to what you know yourself and what you heard and avoid any of these assumptions or conclusions. Do you know definitely whether or not these executions were actually carried out by the Gestapo themselves?

A No, I can't say it so exactly, and I also believe that prisoners took part in the executions.

Q During the course of your testimony this morning, Mr. Lenz, in the first place, you testified that during the course of the evacuation march that you saw no dead bodies; then later during the course of your testimony you mentioned about seeing some dead bodies. Do you want to explain that to the court?

(Lenz - Court)

A Yes. The dead bodies which I saw were the bodies of the prisoners who had been killed in the air raid.

Q The court wants to call your attention to the fact that previously you had stated that during the course of the evacuation march you had seen no dead bodies?

A I didn't see any either.

Q You never saw any dead bodies during the course of the evacuation march?

A Besides these bodies which had been killed by the air raid, I didn't see any bodies at all between Hersbruck and Dachau.

Q Then the court understands that these dead bodies that you saw were caused by the air raid? Or rather that they met their death during the air raid, is that the idea?

A Yes.

PRESIDENT: Any further questions by the members of the court? Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q You have testified that during the months of February and March 1945 there was a large increase in the number of deaths, is that correct?

A Yes.

Q How do you account for that?

A Let us say simply because of the length of the period of confinement. Besides that you have got to reckon in the various transports which arrived--we already spoke of the transports of Hungarians which arrived in December--and they made the impression of being all in because of the long marching they had behind them. Besides that a transport came from Gross Rosen.

(Lenz - Court)

I believe that that included 2,000 men and, as we heard, they had a very difficult transport march behind them. And without drawing other factors into account many of the dead were drawn from these two transports. I can't give you the exact period.

Q Were there any other transports that arrived between the 1st of January and the 1st of March 1945?

A Perhaps not. I can't remember any more in detail exactly. I remember these two big transports in particular.

Q Now, the camp at Herzbruck, did that have a wire enclosure that separated the prisoners from the rest of the camp?

A There was a wire fence around the camp.

Q Around the entire camp?

A Yes.

Q The headquarters where the SS officers were and where Captain Schwarz was, was that inside the wire enclosure?

A Outside.

Q Where were the SS guards quartered? Were they quartered inside the enclosure or outside the enclosure?

A Outside.

Q Was an SS man permitted inside the wire enclosure?

A No, not without permission; no. In the course of time regulations came out about that and, to be specific, nobody could go in or out without showing identification papers. For instance, block leaders and civilians, carpenters and cabinet makers and people with food who had to do transport work had to show identification papers.

Q Could you go inside the enclosure?

A I merely drew up an identification paper for myself and the commando leader signed it.

(Lens - Court)

Floss.

Q Now, at many times during your questioning you have been asked about the camp at Hersbruck. Did you mean the wire enclosure or your headquarters?

A Inside and outside. I don't understand exactly. I was quartered inside the enclosure and people--prisoners--who came over from the work commitment office would talk to me. I had occasion to talk to them, and they would go so far that in a situation where a prisoners' column would meet me on the street I would draw one out of ranks, and ask him how things were going.

Q Did you ever go inside the wire enclosure? Could you go in there?

A It wasn't forbidden for me.

Q Did you ever go inside?

A Yes, I already told about that. Captain of the SS Forster literally threw me out of there later on with all my clerical material.

Q Now, were you sent to Hersbruck as a member of a guard company of the SS?

A Not as a guard but as someone who was not obligated. I did service there. I will have to perhaps go into some detail and explain that.

Q Were you there with the administrative department?

A Yes.

PRESIDENT: Any further questions by the members of the court?

QUESTIONS BY COLONEL BURCHAM:

Q You were talking about reports that Schwarz sometimes threw in the waste basket when he at times wrote on them 5 or 10.

(lenz - Court)

Did you mean by that 5 or 10 blows to be administered by his order?

A Yes.

Q Those beatings were administered?

A I don't know.

COLONEL BURCHAM: That is all.

QUESTIONS BY LAY MEMBER:

Q As a minister of the gospel, have you ever made a survey of the facilities for religious worship? Can you tell the court what the facilities were for religious worship?

A There couldn't be any divine services there, but only on occasions I read passages out of the bible to prisoners, or read passages with them, and prayed with them, and in the little room where I slept I held some divine services, and with SS people, and we even sang very loud during these services; and in fact on the first Easter Sunday when we had our big air raid there were many dead and wounded as a result of that air raid, and nobody ever loaded a wounded person out of the car without my having comforted him spiritually.

Q Just answer my question specifically. You stated that towards the end, you didn't want to go into the camp much, is that true?

A I went in less, yes.

Q Now you stated also that some 400 to 500 were dying every month in that camp, is that true?

A Yes.

Q Did you ever think of going in there and talking to some of those people who were dying?

(Lens - Court)

A First of all I didn't have any chance to do that.

Q All right, that's enough.

A But I also did something.

PRESIDENT: Any further questions by the members of the court?

QUESTIONS BY COLONEL SKIELVIG:

Q Mr. Lenz, can you tell us approximately the number of prisoners that were in Bernbruck in January 1945? You can tell us by looking at these lists.

A (looking at a paper) The end of December, 3.191.

Q I want to know at the end of January 1945?

A Perhaps approximately.

Q Well, approximately?

A Then I will have to count off the mortalities in the various months. I believe that in January the number was somewhat lower.

Q Now just one minute. You had previously given the number of prisoners that died in January. Now I would like to know at the same time that you figured that, how many people did you have alive?

A I can't answer the question like that. I can't give you the number because it is necessary to deduct the people who died and the people who were transferred out of the camp to various factories, etc.

Q Tell me, what was the highest number of prisoners you had during the months of January to April 1945?

A 5,000 perhaps, when those from Gross Rosen was there, yes, about 5,000 there.

(Lenz - Court)

Q Then according to your figures of death during that period, almost one-third of those people died during that period, is that correct? You have given us figures amounting to 1,500.

A In what period of time?

Q From January to March alone you have given us the total figures of deaths amounting to 1,500?

A That could be possible.

Q In other words almost one-third of the population of the camp died during that period?

A Yes.

Q What did they do with the bodies of most of these people?

A They were driven to Nuremberg to the crematory. There they were cremated. Later on--after--the crematory was demolished or else the crematory had refused to do that work, I don't know which--the corpses were cremated in the forest.

Q Mr. Lenz, do you remember an incident of a German furlough train being blown up near the camp then being bombed?

A It was hit by a bomb, it wasn't blown up.

Q That is correct. What do you remember about that?

A That was the incident which I touched upon before, that when I saw that all these wounded people were loaded into trucks that I provided them with spiritual comfort and prayer, and I did that in open view of the whole camp.

Q Do you know of any incident occurring at that time whereupon it was necessary for Schwarz to take any action in the nature of punishment?

A In connection with this incident?

(Lenz - Court)

Q Yes.

A I don't know of any.

COLONEL BALLAVIG: No further questions.

PRESIDENT: Any further questions by a member of the court?

QUESTIONS BY PRESIDENT:

Q You have mentioned that you felt that these charts were reliable. The court is referring to Defense Exhibits 39, 40 and 41. Now can you tell the court definitely whether or not the dead that arrived with the Gross Rosen convoy were included in this report?

A No, Gross Rosen didn't come to later.

Q Now, can you tell the court whether or not these charts included the dead Hungarians about whom you testified?

A Yes, there is one table there with Hungarians. It is a small percent because the people had only been there for a short time, about two weeks, and that is the reason I made this notation.

Q Well, the court understands they were not excluded in the tables, is that correct?

A Oh, yes. Where is it?

PRESIDENT: Never mind.

QUESTIONS BY COLONEL JACKSON:

Q Did you ever request permission to visit in the enclosure during the months of March and April 1945 when so many were dying?

A Whether I asked for permission to visit people? I went in there.

(Lenz - Court)

Q Did you go in there often?

A Go in where?

Q In the enclosure, the wire enclosure, during the months of March and April.

A I kept on going in there, yes; in the course of time, less and less.

Q How many times did you visit in the enclosure during the months of March and April 1945?

A I can't give you an exact answer, in that I will go inside the enclosure and visit people, and then I would also have people come up to my room and see me.

Q I am not asking about people that came up to your room. How many times did you yourself go into the enclosure during those two months?

A I can't say that accurately because whenever I went into the camp I would speak to many people who could speak German.

Q I am not concerned with how many you spoke to. How many times did you yourself go inside the wire enclosure during the months of March and April 1945?

A I can't give you an exact answer there. It would perhaps be once a week and then perhaps twice a day. It kept varying.

Q You at least went into the wire enclosure about once a week during those months, is that correct?

A It could have been a greater interval or a smaller one, yes.

Q Now how did you find conditions inside the wire enclosure? How did the prisoners look?

(Lens - Court)

A It all depended on the seasons, in regard to the cleanliness of the personal clothes of the prisoners. If the season of the year was dry the clothes would be clean, if the season of the year was wet the clothes would not be so clean.

Q I am asking about the months of April and March 1945. Were they healthy and strong, or did they look sick?

A They were practically all somewhat emaciated, but I could assume in that regard that even if a prisoner had gotten a good diet in such a camp he would still look emaciated.

Q Was there an epidemic of any kind during March and April 1945?

A There was one occasional epidemic of Flick Typhus, but that would be in the time of Forster and that was immediately isolated.

Q I am only asking during the months of March and April 1945?

A Yes, I understood the question, but I can't answer it exactly because I don't know exactly. I hardly believe so.

QUESTIONS BY PRESIDENT:

Q You mentioned that it was not possible to carry on with the religious services in Mauthausen. Who was responsible for that?

A There was absolutely no thought about that. It was never prepared.

Q Well, that is what the court wants to know--who was responsible for it? Was it the camp commander, or somebody higher?

A As far as I am concerned, I don't think it was the

(Lens - Court)

fault of the commandant of the camp, but I believe it was the fault of the higher authorities.

Q Well, you were an ordained minister and right in that camp. Did you inquire into the matter as to who put out that order or that policy?

A I believe that I can remember that toward the end there were papers which came from the camp administrators and, according to these papers, it said that clerical people, that is, ministers, would not be allowed in the camp any more; and that fact you should be able to check somewhere.

Q Now, who put out that order?

A That was a camp order which we received from Flossenburg, or I saw it somewhere else among the documents--I don't know which.

Q Then the court understands that no religious services were permitted in Hersbruck during the entire time that you were there, is that right?

A There was no service held, but if I remember correctly there was a Christmas service held. The prisoners in the camp held it.

Q Did you ever see Bongartz mistreat anybody at ~~Nuremberg~~ Nuremberg?

A I never was in ~~Nuremberg~~ Nuremberg on the work detail.

Q Did you ever see Bongartz mistreat anybody?

A No.

Q Did you ever see him strike a prisoner?

A No, if that happened I would have had to have seen it. As I already mentioned before, whenever I saw that somebody

(Lenz - Court)

was beating another prisoner I would open the window and call out and intervene, or else have taken the person under my protection, and I cannot ever remember that I had any trouble of that nature with Bongartz, and that is proof of the fact that it never occurred.

Q Did you ever hear that Bongartz had ever beaten up prisoners?

A I cannot remember.

Q Did you ever see Schwarz mistreat a prisoner?

A Never.

Q Did you ever hear that he mistreated a prisoner?

A Never.

PRESIDENT: Any further questions by a member of the court? Apparently not. Redirect? Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Did you know the Pastor in the village of Hersbruck?

A As soon as I began my activities there I learned to know him immediately and I was always with him, once a week at least, and always took part in the divine services Sunday.

Q Did this Pastor ever go to Schwarz and say that he would like to hold divine services there?

A No, because every one knew that we as ordained ministers would never be able to carry out such a thing.

Q Do you have any clues that Schwarz ever refused to allow a divine service if a Pastor had asked him in that regard?

A As far as I know, in fact I know it for sure. Since he is Catholic I know that he would not have refused that.

(Lenz - Redirect)

Also Mr. Schwarz said that he had a crucification lying in the night table in his room, and he had let his boy Voll be baptized.

Q Could you preach ~~with~~ ABOUT the fact that there was no divine service in Hersbruck?

PROSECUTION: I object to that question on the grounds that it calls for a conclusion of this witness and invades the province of the court.

PRESIDENT: Objection sustained.

Q What could Schwarz have done to better the general conditions of the prisoners? By that I mean to say, did he omit to do something which in your opinion he should have done?

A I believe that that must have been a desperate situation for him because he took the trouble--

PRESIDENT: Just a moment. All right, finish it.

A (continuing): He constantly gave himself trouble and tried to do it but the results were not the results that he wanted.

PRESIDENT: The court will recess for one-half hour.

(Whereupon the court recessed at 1500 hours.)

(Lenz - Redirect)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter and Mr. Berkowitz who are absent on business of the prosecution, all of the personnel of the defense are present with the exception of Colonel Wilson, Mr. Hall and Dr. Engelhorn who are absent on business of the accused, all of the accused are present with the exception of Olschewski, Oswalt and Losch who are sick and Wurst who is conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Continuation of redirect examination, Dr. Wacker.

HANS LENZ, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

REDIRECT EXAMINATION (Continued)

QUESTIONS BY DR. WACKER:

Q Pastor, you said that the trouble which Schwarz took to correct things often wasn't the right success. What things did Schwarz omit when he was trying to get this success?

A He didn't omit anything.

Q What else should he have done to mild the fate of the prisoners?

A If I had been in that situation myself I woulan't know what you could do in all your desperation. Mr. Schwarz went up to the place where all construction was, the headquarters, every day at noon and stayed there four hours and in the morning he would stay four hours in the camp

and at noon he would go through again. Early until late he was constantly in motion.

Do you mean to say that he was in motion in the interests of the prisoners?

PROSECUTION: Just a minute, I object to counsel leading the witness, may it please the court.

PRESIDENT: Objection sustained.

Q What should Schwarz have done in order to reduce the high mortality rate?

A He should have done something that he couldn't have done. He should have said, "The concentration camp is ended. Go home".

Q Was there any other possibility, any other way that this mortality rate could be reduced?

A Gentlemen, what should I say here? Picture the whole desperation of the situation. You don't know what's going on and you couldn't know how you can muddle through.

Q Did you ever talk to Schwarz about the fact whether he was doing his duty in Hernbruck voluntarily or not?

Not expressly, but that was common knowledge.

Q What was common knowledge?

A He told me that he had been ordered there, that he had been a leader of the battery in the eastern front and that he wasn't an official or recognized officer of the SS there.

Q Did he tell you anything about the fact whether the work he did in the concentration camp depressed him or not?

A In this regard Mr. Schwarz was very reticent in regard to me,

(Lenz - Redirect)

his subordinate, but you could sense all kinds of things instinctively.

Q What did you sense?

A That this man suffered under this situation.

Q What could Schwarz do in order to improve the food situation of the prisoners?

A . I can't answer that directly because I am not completely in the picture about that but I constantly saw a list of the rations which came from the administration. They included the prescribed rations and the number had to be right underneath.

Q Can you give us any clue which would contradict the fact that Schwarz constantly gave himself great pains to improve the food situation?

A I assume that in the course of the long rounds which Schwarz made every day that he always went into the kitchen. I also heard that he tasted the food. I don't know whether he did that regularly or not.

DR. HACKER: No further questions.

PRESIDENT: Recross.

RECROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q Is it a fact that you had an opportunity to administer to the spiritual needs of these 5,000 miserable souls and you did not do it?

A I gave spiritual comfort to these souls.

Q You gave spiritual comfort to these 5,000 miserable souls?

A Not all 5,000. There wasn't any chance for that.

Q Well, didn't you tell this court that Schwarz would not prohibit spiritual services there at that camp?

A According to the regulations of the camp it was not possible at all to hold divine services. Besides that it was forbidden for me to go into the camp.

(Lens - Recross)

DR. WACKER: I challenge the interpretation. He said, "...for ministers it was forbidden to go into the camp".

PRESIDENT: We will give the interpreter a chance to verify the matter.

INTERPRETER: That's right, sir.

QUESTIONS BY PROSECUTION (Continuing):

Q It was forbidden for ministers to go into the camp but you also held the position of SS man did you not?

A I continued my activities as a minister from man to man at first in the uniform of the air force and later on in a ragged SS uniform.

Q In what kind of an SS uniform?

A Green.

Q You didn't say "ragged" then did you?

A We got these clothes from the clothing chamber. At the end I wore the pants of the air force and other people were constantly telling me, "What kind of a thing are you wearing?" They were radicalists who said that; it was not Mr. Schwarz.

Q Well, you got a pass signed by Schwarz to go into the camp did you not?

A Yes, perhaps, yes.

Q And did you also testify to this court that Schwarz would not forbid spiritual services in that camp?

A Schwarz would never have been able to allow a service to be held. I beg to be allowed to make an explanation.

Q Just answer my question. Schwarz was the commander of that camp was he not?

A Leader of the commando.

Q Well, when you say "leader of the commando", he was the highest ranking man in that camp was he not?

A Yes, but he had to take orders from Flossenburg in every regard.

Q And he was charged with the duty of carrying out the orders there at that camp was he not?

A Yes, whoever was the leader at that time.

Q And if he didn't carry them out they were not carried out, is that correct?

A What regulations -- what orders?

Q Just answer my question.

A If he didn't do it then nobody else could do it.

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Now, Mr. Lenz, did you ever ask Schwarz for permission to conduct religious services at Hersbruck?

A No, because I knew that that had no purpose.

Q Did you ever make a request of this man Emmert, this Gestapo man, for permission to extend the last consolation to these various men who were going to be executed?

A No. I'll have to give an explanation in that regard. I'm a protestant pastor --

Q That won't be necessary. When you made the summary with respect to the charts listed as Defense Exhibits 39, 40, and 41, did you give any consideration to the lack of food as being one of the reasons for the high mortality rate in the camp?

A That was none of my business, to draw these conclusions.

Q Just a minute. But you did indicate a summary or conclusion on one of the reports didn't you?

A Yes.

Q You didn't mention anything about food in that summary? Now just answer me "yes" or "no".

A There's nothing about food in the summary.

PRESIDENT: Colonel Jackson.

QUESTIONS BY COLONEL JACKSON.

Q Could Schwarz have given anyone permission to conduct religious services in the wire enclosure for prisoners?

A According to my opinion, that is to say according to the regulations which existed in the camp, no. As far as I know that never occurred in any concentration camp.

Q What regulations are you referring to? By that I mean are you referring to regulations in Hersbruck, Flossenburg, or Berlin?

A As far as I remember that was an order which came out of a printed, bound directive and I believe that it came from another camp, perhaps Sachsenhausen, and that was applicable to all the other camps. I was very interested in reading that naturally.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect, Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Did Schwarz give the camp directive out?

A No.

Q Who did that then?

A They came by mail or by messenger and were there.

Q Did these regulations apply only to Hersbruck or for all concentration camps?

A As far as I can see it applied to all of them.

Q Are you a protestant pastor or a catholic?

A Protestant.

Q Does a protestant pastor ever administer the last rites?

A No.

Q What kind of an explanation did you want to give a little while ago when you asked for permission to give an explanation?

A I wanted to explain what has already been explained subsequently. And I wanted to say that most all the prisoners were Catholic and besides that all the people who were included in the strength reports themselves up until the end of December were foreigners and therefore didn't understand the German language. Therefore you've got to recognize the basic difference in the two sets. In the Catholic set the final ritual, the divine services, are held in the Latin tongue and therefore everybody can understand, whereas a German must speak in German or in the applicable tongue to whoever he is talking to whenever he holds communion or administers spiritual comfort. Just one more thing. I often talked about that with a prisoner doctor, a Pole or Ukranian, I believe his name was Nestor, and I constantly asked him to pray with people who were dying because he was a Christian, and he did that. He was Catholic and he mastered various languages.

Q Pastor, during the war in Germany who decided the food rations?

A Probably the economic officers.

Q What influence did Schwarz have there?

A None at all. That was prescribed.

DR. WACKER: No more questions.

PRESIDENT: Recross?

PROSECUTION: No questions.

PRESIDENT: Any further questions by members of the court? Apparently not. The court understands the defense is finished with this particular witness?

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: The defense calls Richard Kulla.

RICHARD KULLA, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Please give your full name.

A Richard Kulla.

How old are you?

46 years.

Are you married?

Yes.

Where is your residence?

A Now in Hersbruck.

Where are you located at the present time?

In Camp .

Are you here in arrest by the American authorities?

A Yes.

PRESIDENT: The court advises you that if you should be asked any question that might tend to incriminate you you have a right to ask the court to refrain from answering that particular question. Do you fully understand

THE INTERPRETER: Yes.

PRESIDENT: Proceed, doctor.

Were you in Hersbruck?

Yes.

In what capacity?

A As chief clerk in the kitchen.

What rank did you have

A I was a corporal in the SS.

Q That is a member of the SS?

A Yes.

Q What duties did you have as kitchen clerk?

A I had to take care of the orders for food.

Q What kind of orders were they?

A For food cards.

Q How did you go about getting these food cards ready?

A I had to go through the food office.

Q Please explain to the court how that was taken care of to get these food cards and to get the food.

A I would make a request for so much food for so many people.

Q What do you mean "for so many people"?

A It depended on how many people were in the camp at the time.

Q Did you tell the food office how many prisoners were in the camp?

A Yes.

Q What happened then?

A Then I got these food cards.

Q On what basis were these food cards given out?

A According to the food rations — how should I say it?

Q Do you mean rations of food which were given out?

A Yes.

Q Who got the food then from the food office, you or the camp or who?

A I got them.

Q What did you do then after you got the cards?

A Then I would give them to the deliverers.

Q And what happened then?

A Then I would get the food.

Q Did you administrate the food?

A Yes.

Q Who turned over the food to the kitchen then?

A I myself.

All the food that the food office gave out was that turned over to the kitchen for the purpose of feeding the prisoners?

A Yes it was all taken over to the kitchen.

Q Did any food disappear?

A No.

Q Did the prisoners get all the food which had been promised to them by the food office?

A Yes.

Were there any extra rations given?

A If it was possible additional rations would be given out.

Q What are you talking about exactly there?

A Above all, vegetables.

Do you know what the prisoners got at that time extra

A Yes.

Q What did they get

According to the week including extra rations for heavy workers.

I don't want to know anything about the ration which heavy workers got. We may go into that later. I want to know what the average prisoner got, normal rations?

200 grams meat, 182.5 grams of margarine, 100 grams of cottage cheese or 50 grams of ordinary cheese, 2,600 grams of bread, barley, flour 125 grams, 50 grams of sugar, 100 grams of jam, noodles 150 grams,

62.5 grams of artificial coffee, 1 liter of fresh milk, 400 grams of potatoes per day.

Q What were the additional rations?

A 280 grams of meat extra for the heavy workers, 100 grams of margarine, 1,400 grams of bread.

Q Were these extra rations also given to the prisoners?

A Yes.

Q Did you take part in the evacuation march?

A No.

Q Why not?

A I had to send the food as supply.

Q How long?

A As long as I had a vehicle at my disposal.

Q When did the evacuation march start?

A I can't tell you exactly. It was in April.

Q For how many days did you supply the food, did you send it after the people?

A Until the 12th of April and sold food until the 15th of April.

Q What did you do then?

A Then I followed after. I wanted to catch up with the prisoners.

Q Did you succeed?

A No.

Q Where did you end up?

A I went as far as ~~Schnittmuehlen~~ Schmidmuehlen.

Q What did you meet there?

A I met 120 prisoners there.

Q What kind of prisoners were they?

A They were sick people or prisoners who were handicapped and could not walk right.

Q Where did you stay then.

A I stayed in ~~Schmittenhlen~~ Schmidmühlen.

Q How long?

A Until the 25th of April when I ended up in captivity.

Q Did sick people get an extra ration?

A Yes, there were extra rations for sick people, for juveniles and for people who worked in construction.

Q Did they actualy hand out these extra rations?

A Yes.

PRESIDENT: Cross-examination.

CROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q What was the average increase in the weight per prisoner during the time that they received this ration?

A I can't tell you.

Q What is your best judgment about it?

A Either he stayed with the weight he had or he lost weight.

Q Well, which was it?

A I don't know.

Q How long were you there?

A From the 1st of October 1944 I was in the prisoners camp.

Q May I see that paper that you testified from please. When did you make this paper up, what was it made from?

A I drew up this piece of paper in accordance with the calculations of the food office.

Q When did you do this?

A I did that about fourteen days ago.

Q And who told you to draw this thing up?

A The defense counsel.

Q Which one?

A Dr. Wacker.

Q Have you added up the total grams that you say was given to prisoners?

A Yes.

Q How much does it add up to?

A What is there on the top?

Q Where?

A (Indicating) Those here are the rations here.

Q Have you added up all those grams that you testified to before this court that you say that the prisoners received?

A Yes -- I don't have the total number, no.

Q Have you any idea what it adds up to?

A Of the prisoners?

Q No, the number of grams in the amount of food that you say the prisoners received per week?

PRESIDENT: Dr. Wacker?

DR. WACKER: I must object to this question because I don't believe that the witness understands what is going on and that he should have added the meat and the vegetables and the artificial coffee and everything together.

PROSECUTION: Now I don't understand what he said, may it please the court. I certainly don't think that's a proper ground for an objection at all. If he wants to tell him what to testify that's a different matter.

PRESIDENT: The court feels the question was well put. If you want to clarify the situation the court will give you an opportunity to do so later on.

QUESTIONS BY PROSECUTION (Continuing):

Q Now, answer the question.

A I can't understand what you mean.

Q You said that the prisoners got on the average per week 200 grams of meat, is that right?

A 480 grams including the extra rations of the heavy worker.

Q We're not talking about that, we're talking about the average ration.

A 200 grams for a normal ration.

Q All right, that's 200. And they got 182.5 grams of margarine, is that right?

A Yes.

Q Now what's the next thing they got there?

A Cottage cheese or regular cheese.

Q Suppose you add up the list from which you have been testifying and tell the court how many grams it represents that a prisoner received on the average per week?

A 40,490 grams.

Q So a prisoner —

A (Continuing) That is beside the milk.

Q Well, please include it all.

A One liter of milk at 1,000 grams.

Q So that makes 41,000, is that right?

A Yes, 41,490.

Q Well, that was almost 6,000 grams per day, is that right?

A Yes.

Q In other words, a prisoner received about 12 lbs. of food per day, is that right?

A A week.

Q No. If he got 6,000 grams a day that's almost 12 lbs. isn't it? In other words, 41,490 grams is what he got per week and if you divide that by seven you get approximately 6,000 grams per day, isn't that right?

A 4,194 grams — I forgot that — that's the way it is.

Q Now he got 4,490 grams, is that what you said?

A 4,194 grams.

Q Well, did you say that he got 400 grams of potatoes per day?

A 400 grams yes.

Q That's 2,800 grams per week isn't it?

A Yes.

Q And he got 2,600 grams of bread per week didn't he?

A 2,600 grams bread per week.

Q So he must have gotten from those two items alone more than 4,194?

A Yes.

Q Have you finished adding that up?

A Including the potatoes he had 2,800 grams per week.

Q Well, that was the amount of potatoes wasn't it?

A Yes, that's for the potatoes.

Q How much was all of it in grams, the total?

A 6,449 grams.

Q So that he got approximately then 927 grams per day, is that right?

A Yes.

Q And that's less than two lbs. of food per day, is that right, less than one kilo?

A Yes.

Q Do you know the work that the prisoners were doing?

A Yes, they worked building roads.

Q Was that food sufficient for the work that they did?

MR. McKAY: That question is objected to. It calls for a conclusion of the witness for which he is not qualified to answer.

PROSECUTION: May it please the court, it's so apparent on its face where they only got less than 2 lbs. of food per day that it would be a matter within the knowledge of any layman under the sun.

PRESIDENT: Objection overruled.

QUESTIONS BY PROSECUTION (Continuing):

Q Answer the question please.

A For some it was enough and for some it was too little.

Q And for whom was it enough?

Well, let's look at it like this. There are some people who eat a lot and some who eat a little and some always want more.

Q Do you know of anyone who eats less than 2 lbs. per day?

A Yes, I don't think that I eat any more than that.

Q Well, for whom was it too little?

A For the workers who were working. They probably could have eaten more but I couldn't offer them any more than I got.

Q Isn't it a fact that everybody in that camp lost weight?

A I can't say that.

PROSECUTION: No further questions.

PRESIDENT: Redirect, Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q In such a calculation is the water usually weighed in or not?

A I didn't include water when I drew up these figures.

Q Did I place the figures from the food office at your disposal from which the calculations were drawn up and determined what each individual prisoner got as a food ration?

A Yes.

Q In this official paper of the food office, was it stated what every average civilian person in Germany received?

PROSECUTION: I object to that, may it please the court, on the ground that it assumes that it is an official paper of the food office and has not been so identified.

PRESIDENT: Objection sustained.

DR. WACKER: I present now the documents of the food office for the purpose of identification.

MR. McKAY: Miss Reporter, I hand you 1, 2, 3, 4, 5, 6 documents which I would like to have you mark for identification as Defense Exhibits 42 on covering the complete number of exhibits herein handed to you.

(The documents referred to were marked Defense Exhibits No's. 42, 43, 44, 45, 46 and 47 for identification.)

MR. McKAY: If it please the court, in order to facilitate the procedure I ask leave of the court to have the opportunity to assist Dr. Wacker by handing to these witnesses and examining the witnesses for the qualification of these documents.

PRESIDENT: Permission granted.

QUESTIONS BY MR. McKAY:

Q Mr. Kulla, I hand you a series of documents which have been marked for identification as Defense Exhibits 42, 43, 44, 45, 46 and 47, and ask you if you have ever seen these before?

A Yes I saw them.

Q Will you explain to the court what those particular documents

which I have handed you pertain to?

Those are the rations which the prisoners were entitled to.

Q Do you know what period of time those documents cover?

A Yes, from 1944.

And how long did they cover, the end of the period in time?

A These rations weren't changed until 1945.

Q What time in 1945 were they changed?

A There weren't any changes at all.

Q In other words, those schedules contained in those documents were applicable during the entire time that you were in Hersbruck?

A Yes.

Q Do you know who issued those documents?

A They came from the food office.

Q And is there anything on those documents which designates the fact that they were issued by the food office?

A Yes.

Q What identification?

A I always got them from the food office.

Q Have you studied these particular documents to compare them with any that you might have had in your possession during the time you were in Hersbruck?

A Yes, I didn't actually draw a comparison, I only know what is remaining in my memory, those which I got in Hersbruck.

Q When did you receive these documents?

A These -- I got them from Dr. Wacker.

Q And when did he give them to you?

A It could have been fourteen days ago.

Q Explain to the court how you used these documents in drawing up

the figures that you had on the piece of paper which you handed to the prosecutor, which the prosecutor gave back to you.

A I copied it off from here because I didn't have it so accurately in my memory any more.

Q Just what do those papers contain with regard to food?

A I don't understand that exactly.

Q So that the court may understand what these documents are, I'd like to have you explain to the court what each one of them contains with regard to the food ration covering the period of time that you were in Hersbruck? Please refer to them by number.

A (Indicating) Here were the portions.

Q What is the number on that on the bottom here?

A 47.

MR. McKAY: May the record show that the witness has referred to the document which has been marked for identification as Defense Exhibit 47.

Q Now explain the others.

A (Indicating) This here is for normal consumers, 42.

MR. McKAY: Let the record show that the witness has referred to the document which has been marked for identification as Defense Exhibit 42.

THE WITNESS: That's also for normal consumers, No. 44.

MR. MCKAY: Let the record show that the witness has just referred to a document which has been marked Defense Exhibit 44 for identification.

THE WITNESS: (Indicating) These here are for internees, prisoners of war, Italian, and some of these internees were eastern workers.

Q What is the number?

A No. 43.

MR. McKAY: Let the record show that the witness has referred to a document which has been marked Defense Exhibit 43 for identification.

THE WITNESS: No. 46 is for penal institutions including concentration camps.

MR. McKAY: Let the record show that the witness has referred to a document which has been marked Defense Exhibit 46 for identification.

THE WITNESS: (Indicating) That refers here to the food which Jews got who were working, the normal consumption. No. 45.

MR. McKAY: Let the record show that the witness has referred to a document which has been marked Defense Exhibit 45 for identification.

Q Were copies of all of these particular documents retained by you in your official capacity in Herstruck?

A No, they all disappeared when we were taken captive.

Q But prior to your capture did you have copies of these in your files?

A I left them back in the camp.

Q Will you explain to the court just what the agency was and what its capacity was which issued these particular documents?

A They came from the food office.

Q When you refer to the food office what do you mean?

A The official minister for national food distribution and agriculture gave out these documents.

Q And what connection did that have with the German government which was in existence at that time?

A That was the office for food.

Q Of what government?

A The Third Reich.

MR. McKAY: At this time the defense offers in evidence documents which have been marked for identification Defense Exhibits 42 through 47 inclusive.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: Yes. I object, may it please the court, to the introduction of the documents marked Defense Exhibit No. 42 on the ground it's immaterial and irrelevant, being a document which pertains to the ration of food for Germans and has nothing to do with the rations issued to concentration camps and on the further ground that it applies only from the period of the 29th of May until the 25th of June 1944. That's my objection, may it please the court, to the introduction of Defense Exhibit 42 for identification.

DR. WACKER: I don't put any value upon the fact that the court will or will not assume these documents as proof but I wanted to show where the witness got his knowledge here when he talks about food. I can shorten the procedure by withdrawing the papers and not presenting them as material at all.

MR. McKAY: If it please the court, on the examination of this witness he presented certain figures in regard to rations. They were based upon certain documents which it is felt by the defense that the court is entitled to have to judge the figures which this man has given in his testimony and also as a basis for the court to have some idea as to the relation of the allowance of food that was issued in Hersbruck under this man and to have an opportunity to compare it with the other food rations that were issued in Germany at that time. The are offered only to explain the figures this witness has given and are not intended in any way to establish proper standards but give the court a background as to where these figures were obtained and how they were obtained.

PRESIDENT: Mr. McKay, what the court would like to find out at

the present time is whether all these defense exhibits, 42 to 47, form the basis of the figures given by this particular witness or whether certain specific defense exhibits form the basis.

MR. McKAY: If it please the court, I'd like to ask the witness a question. I think it would clear it up.

PRESIDENT: The court will grant that request.

QUESTIONS BY MR. McKAY:

Q Mr. Kulla, I again hand you these exhibits marked for identification 42 to 47 inclusive and I ask you to give me the number of the documents which you actually used in arriving at the figures which you have on your memorandum and which you have given in your testimony before this court.

A No. 47.

Q Now this document 47 then is the only one that you actually used as a basis for your calculations?

A Yes, they were the only ones.

PRESIDENT: Now, Mr. McKay, in order to expedite matters does the defense desire at this time to make any changes in their offer?

MR. McKAY: Yes, sir.

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

MR. McKAY: In view of the testimony just given by this witness the defense at this time withdraws its offer of all of the defense exhibits 42 to 47 inclusive and requests the opportunity to present the document which this witness identified as defense exhibit 47 for identification as defense exhibit 42 and the defense also will present to the court an English translation of this document which will be marked 42-A which will have to be prepared by the translation section.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objection, sir.

PRESIDENT: Court will be closed.

(Whereupon the court was closed at 1655 hours.)

***

(Whereupon the court was opened at 1700 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel who were present before the court was closed are now present.

MR. McKAY: At this time the defense asks permission to withdraw all of the exhibits 42 to 46 inclusive and asks that exhibit which has been marked for identification as 47 be received in evidence under that number. I withdraw the offer of the documents which have been marked Defense Exhibits 42 to 46 inclusive and now offer the document which has been Defense Exhibit 47 for identification as Defense Exhibit 47 to avoid confusion in the record with regard to the numbers.

PRESIDENT: Now the court understands, Mr. McKay, that you are offering Defense Exhibit No. 47 in evidence at the present time?

MR. McKAY: That's correct, sir.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objection sir.

PRESIDENT: Subject to objection on the part of any member of the court the court will receive Defense Exhibit No. 47 in evidence and give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit No. 47 for identification was received in evidence as Defense Exhibit No. 47 and is attached hereto and made a part of the record.)

PRESIDENT: The court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court adjourned at 1705 hours.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: Zweite Anklage: .....

Particulars: Einzelheiten:

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on ..... 194 .....
in (Address of Court) am
(Anschrift des Gerichtes)

at ..... By Order
um Uhr stattfinden. Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

Case No. FLOSSENBURG

Pages 6618 - 6701, Incl.

*~~Summary~~
*~~Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 14 November 194 6

Prosecutor

Defence Counsel

Interpreter

Reporter

Members of Court:

WITNESSES:

RICHARD KULLA
HANS GRAEBERT
HANS JOACHIM GEIGER
HEINRICH GISSLER
JOHANN MUELLER
KARL HILPERT

Accused FRIEDRICH BECKER, ET AL

Address

Sex

Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

TA

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGUN 12 JUNE 1946

14 November 1946 Pages 6618 - 6701, Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
RICHARD KULIA			6618 6621 6624	6620 6624	6622
HANS GRÄEBERT	6625	6626			6628
HANS JOACHIM GEIGER	6629	6635	6655 6663	6664	6657
HEINRICH GISSLER	6665	6669	6677		6678
JOHANN MUELLER	6679	6689			
KARL HILPERT	6693	6698			

EXHIBITS

None

TA 598-11/14-DHC-1
FLOSSENBURG

CAMP DACHAU, GERMANY

14 NOVEMBER 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all of the personnel of the defense are present with the exception of Col. Wilson who is absent on business of the accused, all of the accused are present with the exception of Oswalt, Mussfeldt, Eisbusch, and Losch who are ill and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Continuation of redirect examination, Dr. Wacker.

RICHARD KULLA, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

REDIRECT EXAMINATION (Continued)

QUESTIONS BY DR. WACKER:

Q Mr. Kulla, which food was rationed by the ration office and which food was not rationed?

A All food.

Q Including vegetables?

A Also vegetables.

Q Did you also get vegetables for Hersbruck on ration cards?

A Yes.

Q How much did you get?

A 2,100 grams a week.

Q Is the vegetable ration included in the table that was discussed yesterday?

A No.

Q Was there other food not contained in this list?

A Yes there was additional food not included.

Q What additional food?

A For heavy workers.

Q Do you know what they got?

A Yes.

Q Explain that but be concise.

A 200 grams of meat per week, 1,400 grams of bread, 100 grams of margarine.

Q Were these additional food rations handed over to the prisoners?

A This ration was handed out to all prisoners.

Q Compare the German civilian food ration to that of a prisoner in the camp of Hersbruck.

A Including the additional rations for workers who performed heavy work they got more than the civilian population did.

Q I am talking about the common ration for prisoners and the common ration for Germans.

A It was a little less.

Q You were asked by the prosecution yesterday whether any prisoners gained weight with this food ration. Now I am asking you if any German civilians gained weight during the war on the rations they received?

A No.

Q How were the food rations during the war in Germany in general?

A They had enough to live.

Q Did people gain weight?

A No.

Q Did they lose weight?

A Yes.

Q Could any civilian person go to the food ration board and get more rations?

A No.

Q Did camp leader Schwarz have the possibility to get more food for his prisoners than he was allowed by the ration board?

A With the exception of vegetables which he could buy on the side sometimes.

Q What was the case with the exception of food, could he get more or less?

A Sometimes they got it.

Q What did they get?

A Vegetables.

Q How about the other food, could he get more or couldn't he?

A No.

DR. WACKER: No further questions.

PRESIDENT: Recross.

RECROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q Now tell the court, Kulla, how many grams the SS men in Flossenburg received each day.

MR. McKAY: That's objected to. This man has testified

as of Hersbruck.

PROSECUTION: Excuse me, that's absolutely correct. I'll withdraw that question.

Q Tell the court, Kulla, how many grams of food the SS men received in Hersbruck each day.

A At first I was the bookkeeper with the troops in the kitchen and the troops received considerably less.

Q The troops got less than the prisoners, is that right?

A Yes.

Q You are absolutely certain about that?

A Yes.

Q I show you a picture marked Prosecution's Exhibit No. 4 and ask you to state whether or not you saw any SS men in Hersbruck that had bodies that looked like that?

A No.

Q And I show you another picture marked Prosecution's Exhibit No. 44 and ask you to state if you saw any SS men that appeared like the bodies appear in that photograph in Hersbruck?

A I can't say that because I didn't see the prisoners and I didn't see the SS men.

Q I'm talking about whether or not you saw any SS men whose bodies looked like the bodies of those prisoners that appear there in Prosecution's Exhibit No. 44?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Did you see SS men who came from Gross Rosen in an open freight-car and didn't have anything to eat for four days and nights?

A Yes.

Q What did they look like?

A I can't say what they looked like.

DR. WACKER: No further questions.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL JACKSON:

Q You gave a list yesterday of the authorized food ration for the prisoners, do you recall that?

A Yes.

Q Were you able at all times to draw that ration?

A Yes.

QUESTIONS BY LAW MEMBER:

Q Did the commandant of the camp have anything to do with prescribing the rations?

A The rations were prescribed by the food office.

Q Could the commandant of the camp get the food ration increased?

A No.

Q How was the commandant of the camp responsible for the people not getting enough to eat?

A The commandant took care that everybody got that what he was supposed to get.

Q Was there anything else he could have done?

A Not in this respect.

QUESTIONS BY THE PRESIDENT:

Q Were there various times when there was a shortage of issue of various items on that list?

A No.

Q In other words, there wasn't a single time when a single item was not available for issue, is that right?

A During the last period there were sometimes a lack of bread because of the air attacks but people always received it.

Q What the court is referring to is a shortage. In other words, were there any times when various items on that list, those various lists that have been presented to the court, were not available for issue?

A Everything was issued and everything was there.

QUESTIONS BY LT. COL. SMYLY:

Q How many times did you see the prisoners eat?

A I did not see the prisoners eat.

Q As a matter of fact you don't know what they got then do you?

A I watched that in the evening quite often and at noon they got their food at their place of work when I was not present.

Q Did you see them eat or didn't you see them eat?

A No.

Q Then how do you know what they got to eat if you didn't see them eating?

A I issued the food and I checked it also whether it was being distributed evenly, mainly bread.

Q You just know what they were supposed to have gotten, is that true?

A Yes.

QUESTIONS BY THE PRESIDENT:

Q Was there any black-market in Hersbruck as far as food was concerned?

A No.

Q You mean not that you know of?

A I don't know anything about that.

Q Did the prisoners draw the same ration as the SS men?

A They received soup, thick soup, most of the time and on holidays they would also get goulash with potatoes.

Q What do you mean by thick soup?

A They received vegetables and noodles, for instance, and meat.

Q Then the court understands that the prisoners generally got a thin soup, is that the idea?

A No, the soup was thick.

Q What was the difference between the soup then issued to the prisoners and the soup issued to the SS men?

A The prisoners received much more meat than the SS did.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect, Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Did Schwarz check the issue of food and preparation of food from time to time?

A Mr. Schwarz checked the food almost every day.

DR. WACKER: Thank you.

PRESIDENT: Recross.

RECROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q What did he do when he checked it?

A He tasted it.

PROSECUTION: No further questions.

(Kulla - Redirect - Recross)

PRESIDENT: Further questions by members of the court? Apparently not. The court understands that the defense is finished with this witness?

MR. McKAY: That is correct, sir.

PRESIDENT: The witness is excused.

DR. WACKER: The defense calls as its next witness, Hans Graebert.

MR. McKAY: The witness is being called on behalf of the accused 43.

HANS GRAEBERT, called as a witness by the defense, having been duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q State your full name, please.

A Graebert, Hans.

Q How old are you?

A 39 years old.

Q Are you married?

A No.

Q Where do you live?

A Dachau.

Q I don't mean now. I mean normally?

A Berlin.

Q What is your profession?

A I am a merchant, employee.

Q Where are you at the present time?

A Dachau.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: The court at this time sees fit to advise you, Graebert, that if you should be asked any question that might tend to incriminate you that you have a right to ask the court to refrain from answering that particular question. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Dr. Wacker.

QUESTIONS BY DR. WACKER (Continuing):

Q Mr. Graebert, were you in Hersbruck?

A Yes.

Q At what time?

A From November 1944 until April 1945.

Q In what capacity were you in Hersbruck?

A As administrative non-commissioned officer.

Q What rank did you hold?

A Technical Sergeant.

Q What were your duties as administrative non-commissioned officer?

A It was my duty to see to it that the food issued and alloted -- that the equipment needed for billeting alloted by the food office and issued by them was brought to the camp and I took care of it administratively.

Q Mr. Graebert, was there any conversation before the evacuation of the camp -- any conference?

A Yes.

Q Who was present?

A The accused Schwarz was present, the captain, Dettmer, the medical captain, Ehrlich, the roll-call leader and I, the labor commitment leader and the sergeant, Lenz.

Q Is that Pastor Lenz?

A Yes.

Q Would you recognize the former out-camp commander Schwarz if you would see him today?

A Yes.

Q Please point him out.

A (Indicating).

DR. WACKER: The witness has identified No. 43 as Schwarz.

Q Tell the court what was going on in this conference before the evacuation.

A During this conference it was determined what routes these marching columns should take, how many columns there were to be, that there was to be a food storage house on the way for the columns which marched, a man was assigned to billeting duties, that is, he had to go ahead and make the necessary billets. It was further stated that the people who got sick on the march were to be taken along by wagons with the columns.

Q What happened to those sick people who were in the camp at that time?

A The sick people who were in the camp at that time were transferred by train to Dachau, specifically Flossenburg.

Q Did this conference as far as the sick people were concerned say that they were to be taken along by wagons but only for the people who got sick on the way?

A Yes, for those who got sick on the way.

Q Did you take part in the evacuation march?

A No I did not take part in that.

DR. WACKER: No further questions.

PRESIDENT: Cross-examination.

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q These wagons that were used in this march were used to haul the baggage of the SS were they not?

A I don't have any knowledge of that because I was not there during the march.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

DR. WACKER: No further questions.

PRESIDENT: Questions by members of the court.

EXAMINATION BY THE COURT

QUESTIONS BY LT. COL. BURCHAM:

Q How many sick were evacuated from Hersbruck just prior to the evacuation?

A I can't give an exact number.

Q Give an estimate.

A 300 or 400.

Q Do you know what the ailment was?

A No I can't say that.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect?

DR. WACKER: No further questions.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: The court understands the defense is finished with this witness?

MR. McKAY: That is correct.

PRESIDENT: The witness will be excused.

PRESIDENT: Cross-examination.

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q These wagons that were used in this march were used to haul the baggage of the SS were they not?

A I don't have any knowledge of that because I was not there during the march.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

DR. WACKER: No further questions.

PRESIDENT: Questions by members of the court.

EXAMINATION BY THE COURT

QUESTIONS BY LT. COL. BURCHAM:

Q How many sick were evacuated from Hersbruck just prior to the evacuation?

A I can't give an exact number.

Q Give an estimate.

A 300 or 400.

Q Do you know what the ailment was?

A No I can't say that.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect?

DR. WACKER: No further questions.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: The court understands the defense is finished with this witness?

MR. McKAY: That is correct.

PRESIDENT: The witness will be excused.

(Thereupon the witness was excused and withdrew.)

DR. WACKER: The defense calls as its next witness Dr. Geiger on behalf of the accused Schwarz.

HANS JOACHIM GEIGER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Please state your full name.

A Hans Joachim Geiger.

Q How old are you?

A 33 years old.

Q Are you married?

A Yes.

Q Where do you live?

A At the present time in Regensburg.

Q What is your profession?

A Medical doctor.

Q Are you a doctor with a practice in Regensburg?

A No I don't have my own practice.

Q But you took your medical examinations?

A Yes.

Q You also have the doctor's degree?

A No.

Q Where are you at the present time?

A In the sonderlager.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: The court advises you at the present time that if you should be asked any question that might tend to incriminate

you that you have a right to ask the court to refrain from answering that particular question. Do you fully understand?

A Yes.

PRESIDENT: Proceed, Dr. Wacker.

QUESTIONS BY DR. WACKER (Continuing):

Q Were you ever in Hersbruck?

A Yes.

Q During what time?

A 1st of Februar. 1945 until the end of March 1945.

Q In what capacity were you in Hersbruck?

A As doctor.

Q Who was the commander of the out-camp Hersbruck at that time?

A Mr. Schwarz.

Q Could you recognize him if you would see him? Please point him out.

A (Indicating) No. 43.

Q What was the reason for your going to Hersbruck?

A I was always sent there where things were in a state of emergency, that is to say where they needed doctors' help and I was requested by Mr. Schwarz.

Q What did you see in Hersbruck?

A As a doctor there was a lot of work in Hersbruck because conditions of health were bad.

Q What were the main kind of diseases that you met in Hersbruck?

A Colds, surgical diseases and infections.

Q Were there any epidemics in Hersbruck?

A Fleck fever was there.

Q Did Schwarz bother about the sick or didn't he?

A Mr. Schwarz assisted us greatly.

Q How many doctors were there?

A There was a medical captain from the Luftwaffe air forces and I as his assistant and outside of thatthere were several prison doctors. Each ward had a prisoner doctor. The ward for interior diseases had a doctor. The surgical ward had several doctors.

Q What was the reason for the cases of death in Hersbruck?

A The reason was that many camps from the east were evacuated, that these people were shipped in these camps and that their health — those who had been evacuated — was very bad and that they were in a very bad condition.

Q What could Schwarz as camp commander do to avoid these cases of death?

A For one thing he gave us the necessary space so that we could take care of the sick. That is to say he put one-third of the whole camp at our disposal which was then converted into a hospital.

Q What else did he do or what else should he have done?

A He also put the necessary personnel at our disposal. He took out almost all doctors who were prisoners and used them in the hospital.

Q What nationalities did these prison doctors have?

A Frenchmen, Ukranian, Hungarians, a Hungarian Jew was Dr. Schwarz. He was in charge of the surgical section. A Dr. Jacobi who also was a Jew was in charge of the fleck fever ward. A certain Nestor was there. He was a Russian. Then I recall a certain Dr. Goldfeder. He was a J doctor also. Then there was a Russian professor in one of the

Q What was missing when you state that Schwarz took trouble about these things and that there were enough doctors? Why, in spite of this fact, did people die?

A This, as I have mentioned before, can be traced back to the fact that these people were shipped in from the east and that they were in a very bad condition of health and physical condition and they of course would have a certain rate of mortality among them. That is to say that we were confronted with these people in this bad physical condition, weak and unhealthy, and for that reason mortality was at hand.

Q Please tell the court what Schwarz didn't do to improve the condition of health among the prisoners in Hersbruck?

A Whatever was humanly possible to help has been done.

Q How about medicines?

A Medicaments were there but certain special kinds were not available. Mainly sulphur drugs were missing to fight infections.

Q Are cases known to you whereby people were treated in the hospital of Hersbruck for having been beaten?

A No cases known to me.

Q Are cases known to you whereby dead bodies were sent in having been bludgeoned to death?

A That was not known to me either.

DR. WACKER: No further questions.

MR. McKAY: This witness is also going to be used on behalf of the accused represented by Mr. O'Connor.

MR. O'CONNOR: If it please the court, I want to interrogate the witness on behalf of the accused No. 42, Schwanner.

QUESTIONS BY MR. O'CONNOR:

Q Doctor, what school did you take your medical preparatory work?

A I studied in Erlangen, Wuerzburg, Rostock.

Q Are these universities medical schools?

A Yes, and Frieburg in Breisgau.

Q And you have been admitted to the practice of medicine and surgery in Germany, have you not?

A Yes.

Q And you have practiced either in a private capacity or in the medical corps of the German Army, is that right?

A Yes.

Q Doctor, did you ever have any occasion to be in Obertraubing, an outcamp of Flossenburg?

A I was once at Obertraubing. It must have been the 9th or 10th of April 1945.

Q What was the purpose of your visit to Obertraubing?

A A report was made that there was an epidemic there and I had orders to inspect it.

Q Did you inspect the camp?

A Yes.

Q Will you please describe to the court what you found there?

A I went there with the commando leader, detail leader, and visited the hospital.

Q Who was the commando leader at that time?

A Mr. Schwanner I believe is his name.

Q Can you identify him now if you see him?

A (Indicating) Yes, up here.

Q What number?

A 42.

Q Please describe to the court what your inspection of the hospital disclosed.

A At first I found out that there were several hospital wards available so that these cases of infections could be isolated.

Q What did you find out with respect to the epidemic?

A There were only a few cases of fleck fever left. The epidemic was decreasing and as far as I know only these few cases were there.

Q What had they done with the people ahead of you?

A They were isolated and treated accordingly.

Q By whom?

A There was a doctor there who was a prisoner, and a medical student, and outside of that there was a Luftwaffe doctor there from the airport.

Q Were there any nurses there?

A This medical student did his duties as male nurse.

Q What did your inspection disclose with respect to hospital facilities and medicines?

A Medicaments were available, were at hand. We ourselves brought a truck of bandages and medicines along.

Q In your opinion as a doctor were the facilities at Obertraubing at the time you inspected the hospital adequate under the circumstances?

A At the time while I inspected it everything was there.

Did you ever make a report of your inspection trip?

A I couldn't do that because I could not return.

Q You mean you couldn't return to where?

A To Flossenburg.

Q Well, your answer to that question is "No", have you ever made a report?

A No, no report.

Mr. O'CONNOR: That's all.

PRESIDENT: Cross-examination.

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q Where did you get your license to practice medicine, Geiger?

A In Friebourg, in Breisgau.

Q What was the date?

A September 7, 1939.

Q Did you specialize in any particular branch of medicine?

A No, I am a practical doctor.

Q You mean by "practical doctor" you are engaged in general practice, is that correct?

A Genetics with special interest for interior medicine.

Q Now you testified a moment ago and referred to colds as being one of the diseases that you found at Hersbruck. What do you mean by "colds"?

A Head colds, throat infections.

Q Did you find out what caused it.

A These were colds. That means they were caused by the weather.

Q Caused by the weather? Well, did you take any steps to prevent a recurrence of it?

A We took about one-third of the whole camp into the hospital.

Q And how many did you have in the camp at that time that you took one-third of them to the hospital?

A Approximately 6,000.

Q So that you took 2,000 to the hospital. What portion of the camp was turned into a hospital?

A The back part of the camp. I don't have a map here.

Q And that was approximately how many blocks?

A Seven or eight. I can't say exactly.

Q How many blocks did they have in the entire camp?

A I don't know any more now.

Q What is your best judgment about it?

A At least twenty but I can't say any more.

Q Well, as doctor on duty there in Hersbruck wasn't it part of your job to go around and inspect the sanitary conditions of these blocks?

A Yes, and that happened too.

PRESIDENT: Court will take a half-hour recess.

(Whereupon the court recessed at 1000 hours.)

Camp Dachau, Germany

(Whereupon the court reconvened at 1035 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson who is absent on business of the accused; all the accused are present with the exception of Oswalt, Mussfeldt, Eisbusch, Losch, and Ginschel, who are sick and whose interests are being taken care of by counsel.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination.

DR. HANS JOACHIM GEIGER, called as a witness for the Defense, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION (continued)

QUESTIONS BY PROSECUTION:

Q Mr. Geiger, you had tuberculosis at Hersbruck, did you not?

A Yes, we also had tuberculosis cases.

Q And you had pleurisy?

A Yes, also pleurisy.

In fact, you practically had every kind of respiratory disease that is known, did you not?

A We had the ordinary respiratory diseases that occur.

Q What treatment was given these people with tuberculosis?

A Above all they were kept in bed, quiet.

Q How many to a bed?

A One man in one bed.

Q Was that true throughout the hospital?

A Yes, that was true throughout the whole hospital.

Q You had 2000 beds then, devoted to the treatment of prisoners, is that correct?

A They weren't all dedicated to the treatment of tuberculosis because everyone wasn't suffering from tuberculosis. For all the patients we had about 2000 beds.

Q You understand English, doctor?

A Very bad.

Q Did you make daily inspections of the sanitary conditions of the blocks?

A There were block doctors in the various blocks.

Q I didn't ask you that. Answer my question, please.

A No, I didn't visit them daily.

Q How frequently did you inspect the sanitary conditions of those blocks?

A Perhaps once a week.

Q The sanitary conditions there were not good, were they?

A The sanitary conditions were good.

Q How many occupied a block, Doctor?

A That varied, I can't tell you exactly.

Q Between what limits did they vary, please?

A I assume between 200 and 400.

Q Was that the greatest or the smallest number?

A 400 was the highest number. I had that many lying in a convalescent ward.

Q And 200 was the fewest, is that correct?

A Yes. I can't tell you that anymore exactly.

Q When you say the sanitary conditions were good, do you mean the were good for the prisoners or they were good for normal human beings?

A They were good in comparison to the conditions in the camp.

Q What do you mean, "in comparison with conditions in the camp"?

A The sanitary conditions were good within the possibilities of doing what you could do there with what was at your disposal.

Q Were they good as compared to the conditions of sanitation that were required by German law for the civilian population?

A Yes, they were sufficient.

Q How many lavatories did they have in one of these blocks?

A I can't say anymore, exactly.

Q Doctor, you were there at Hersbruck in November '44 until April '45, and you made weekly inspections of these barracks. Can you tell the court at this time you did not know how many lavatories the barracks had?

MR. MC KAY: The question is objected to as a misstatement of the facts. He didn't testify he came

in November. He testified he came in February '45.

PRESIDENT: Sustained.

PROSECUTION: That is correct. I am sorry.

I stand corrected.

QUESTIONS BY PROSECUTION:

Q You were there in February 1945 until the end of March 1945 and you made weekly inspections of the barracks and, based on that observation you cannot tell this court the number of lavatories in the blocks, is that correct?

A I can't remember the details anymore.

Q As a matter of fact, you did not make those inspections, did you, Geiger?

A What do you mean by that?

Q Just what I said. You didn't make weekly inspections, did you?

A Of course inspections were made.

Q I am talking of inspections by you.

A I did it and also Dr. Ehrlich.

Q As a matter of fact you were away, engaged in civilian practise, were you not?

A No, I did not practise my civilian practise during this period of time.

Q Is it not a fact that you were disciplined down at Mauthausen for neglect of duty?

MR. MC KAY: That is objected to as going beyond the scope of any issue involved in this case.

PROSECUTION: I should like to be heard on that.

PRESIDENT: Go ahead.

PROSECUTION: They put this man up, may it please the court, as an expert, also as a person in charge of

the medical affairs there at the camp and it would certainly be material and relevant to know what kind of man was put in that position. If he was incompetent and known to be incompetent, that certainly would be one of the matters that would show the type of conduct that Schwarz manifested in the interest of the camp, and also, may it please the court, there is other evidence along that same line that will show his attitude toward the prisoners and the type of treatment they received there from him.

PRESIDENT: All right, Dr. Wacker.

DR. WACKER: I did not call this witness as an expert. I called him as a doctor to prove that Schwarz, in his capacity as leader of the camp, did everything in this regard that he possibly could do, and for that reason I haven't objected to these questions for the time being. As long as it isn't proved that Schwarz should have had more latrines built, unless you can prove that, I consider these questions absolutely unnecessary and as having no connection with the subject under discussion.

PRESIDENT: The objections of Mr. McKay and Dr. Wacker are overruled. Proceed.

PROSECUTION: Will you read the question, ma'am?

(Thereupon the reporter read the last question as follows: "Is it not a fact that you were disciplined down at Mathausen for neglect of duty?")

A That is an entirely different matter. That has nothing to do with the matter and if we were to discuss that, it would take us too much off the beaten track.

(Geiger-cross)

QUESTIONS BY PROSECUTION:

Q Just answer my question, the court will decide that. Just answer my question.

A From whom was I supposed to be read off?

PRESIDENT: Just answer the question. You will be given an opportunity to explain, if necessary.

WITNESS: It is being thrown in my face here that at Ebensee, an outcamp of Mathausen, that I was there chastised because I didn't pay enough attention to the prisoners because I had a civilian practise on the side.

Q Is it true or not that you were disciplined for neglect of duty by Ziereis, the commandant of Mathausen?

A On the basis of a denunciation, but Ziereis couldn't form any opinion, any judgment about the conditions in Ebensee because he didn't pay enough attention to this camp as he should have.

Q Is it not a fact that you stated down there on that occasion that "it is far better that ten prisoners should die than one civilian"?

DR. WACKER: I object to such questions because they really go beyond the scope of a direct examination.

PROSECUTION: May it please the court, when he put this man on the stand, as he has said, to show that everything was done by Schwarz that could be done, I think it would be material to show that where a man has a state of mind of the type illustrated by his remarks that "it is far better that ten prisoners should die than one civilian", that that standard that he says Schwarz has complied with, it is important for the court to know what Geiger thought should be done. That is illustrative of that fact.

WITNESS: That is not at all true.

PRESIDENT: This witness is cautioned to keep still until he is given an opportunity to talk. This is a matter for the court to decide, not the witness. Mr. O'Connor.

MR. O'CONNOR: May it please the court, I think the last remarks of Col. Denson should be stricken because up to this point there is nothing in the record to show this witness ever made that statement and I do not think Col. Denson should be testifying here. Unless this objection is overruled and he gets that answer in, that he did say that, his remarks should go out because they illustrate nothing so far.

PRESIDENT: All right, Dr. Wecker, make your remarks concise.

DR. WECKER: There are inuendos here that Schwarz knew that such a remark had been made and until it is proven that Schwarz did make such a remark, the whole thing does not hang together.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 1100 hours.)

(Thereupon the court was opened at 1110 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel who were present before the court closed are now present, and Hussfeldt,

(Geiger-cross)

Eisbusch and Genschel have returned to the dock. The witness is reminded he is still under oath, and if there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The objection of Dr. Wacker is overruled. The motion to strike on the part of Mr. O'Connor, is sustained, but the court wants to make it plain to the Prosecutor that that does not refer to the original question as put by the Prosecutor which has not been answered by the witness.

PROSECUTION: Will the reporter repeat the question.

(Whereupon the question was read by the reporter as follows: "Isn't it a fact that you stated down there on that occasion that 'it is far better that ten prisoners should die than one civilian'"?)

A I never made any such statement.

QUESTIONS BY PROSECUTION:

Q What was the statement you made in that regard?

A The fact is that there were 2000 civilian workers in Ebensee besides the 6000 prisoners, and these civilian workers were also foreign workers. It is a matter of fact that these foreign workers also had to receive medical attention because there wasn't any doctor at all for these 2000 civilian employees. And at that time I reported myself voluntarily ready to give these people medical attention and in my office hours I treated these civilian workers, without mentioning the fact I was not obligated to report to the camp at any particular time, but those who worked with me at that time can verify the fact that I often worked until 9:00 or 9:30 in the camp in the evening.

(Geiger-cross)

Q Is it not a fact you were disciplined for that remark?

A Because of what remark.

Q The remark that you made that "it is better that ten prisoners should die than one civilian"?

A No, I never made such a statement.

Q Do you know Ziereis's signature?

A I don't know. I can't remember his signature but in case of necessity I could probably --

Q Probably what?

A I would probably recognize it.

Q I hand you a document, Geiger, that has been marked Prosecution's Exhibit 80 for identification, and ask you to examine the last page of it and state whether you recognize that as Ziereis's signature?

A I don't recognize it as such because as far as I know he always wrote out his full name.

Q That is not the original paper but a carbon copy, is that not so? The original went on to Oranienburg, did it not?

A Yes.

Q You don't recognize that as being Ziereis's mark?

A I can't say that. I can't tell you how the signature of Ziereis is.

Q Do you recognize this folder you hold in your hand?

A I never saw it. I never had it in my hands before.

Q Will you look at it and examine it and see if you can recognize it?

A I never had it in my hands.

Q I did not ask you that. I asked you to please look at it and see if you can identify it and tell what it is.

A As what should I identify that?

Q Whatever it is.

A They seem to be papers of me. There is my pay book and here I'm reading a verdict which I never have seen before.

Q Is that not your service record there in the front of that book?

A Yes. Here is my military identification paper.

Q Is that not the personnel file that belongs to you, that was kept on you as a member of the SS?

A I never had my personnel data in the hand before and I didn't know that my pay book was still in existence.

Q Was it customary in the SS to keep a personnel file on the members of the SS?

A Yes, I assume so. Everybody had his papers.

Q Are those your papers?

A The pay book is mine.

Q What is the first page? Is that yours also?

A I never saw that before.

Q Did you ever hear about it.

A Not that either. I never had any verdict in regard to me in my hands before.

DR. WACKER: I ask for a short pause.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order. Mr. Prosecutor, the court wants to avoid spending too much time on the credibility of this particular witness. Make it as concise as possible.

(Geiger-cross)

PROSECUTION: Yes, sir.

QUESTIONS BY PROSECUTION:

Q I hand you a document, page 16 of the folder, which has previously been referred to as Prosecution's Exhibit No. 80 for identification, and ask you to state whether you have ever seen that before?

A No. Just a second. I'll have to look through it. I can't remember it anymore about that but it is probably a matter of fact.

Q Is it not a fact, Geiger, that that is a reprimand you got as a punishment for the complaint that was made on the document marked Prosecution's Exhibit 80 for identification, and sent to Oranienburg by Ziereis?

A I only know that at that time I got a severe reprimand from Commandant Ziereis. I don't know whether it is included here in these documents, but this matter wasn't mentioned.

Q Now I call your attention to page 5 of this folder and ask you to state what that is.

A But that is not the original copy of what was issued to me at that time. It is written here "he received a serious reprimand because he did carry out duties which were against the prescribed regulations." I believe that the court will be in the clear about what that means, a reprimand from the Commandant Ziereis.

Q That reprimand was based on this complaint which has been marked Prosecution's Exhibit 80?

A This report - it is written here that this reprimand came as a result of a complaint which came from the former leader of the camp.

(Geiger-cross)

Q And what is that?

A The Commandant reproached me with the fact that I was very seldom in the camp because of the attention I was giving to the civilian employees and the workers and the people in the construction spot, and that I had presumably reported to him that I would rather see ten prisoners die than one civilian.

Q What about officially?

A I was supposed to have presumably made that officially but both reproaches did not correspond in any way to the facts. The camp Commandant of Ebensee was a certain Reimer who in his capacity was just as unsufficient as Commandant Ziereis.

Q Ziereis didn't like prisoners, did he?

A I believe that that's a matter of common knowledge, that it's well enough known what attitude Ziereis took to the prisoners.

Q It was bad, wasn't it?

A Exceptionally bad.

Q In spite of the fact that he had that attitude towards prisoners, he still saw fit to punish you for your attitude toward prisoners, is that not true?

A That doesn't jibe, for the following reason -- first of all, Ziereis was a great hater of doctors. That was verified to me in Berlin. I was told in Berlin that Ziereis hated doctors so badly that it was unbearable.

Q The reprimand that you got was from Dr. Lolling, who was the Chief of the SS Doctors, is that not so?

A Yes, as a result of the report which came from Ziereis.

Q Now, Geiger, these people who came from the East were in bad physical condition, is that not so?

A Yes.

Q These prisoners were sent out to work, were they not?

A No.

Q What happened to them?

A I'd like to ask you a question there. Are we still talking about Ebensee or are we talking about Hersbruck?

Q We are talking about Hersbruck.

A As I already said, before, one-third of the entire personnel in the camp were taken into the hospital.

Q The remaining two-thirds went out to work, did they not?

A Part of them went out to work and part of them stayed in the camp to work.

Q How many went out to work?

A Those numbers are not in my head anymore.

Q Have you any judgment about it?

A I don't know anymore.

Q Approximately how many people would report sick at sick call each day, on the average?

A The sick people were brought over according to blocks and the dispensary was in operation all day long. I wasn't always there when the sick people were reported.

Q Did you get any --

A I'm not through yet. It was like this - various doctors at the various wards in the hospital would take care of the dispensary duties and, as a result of their investigations, I would, every day, examine the people who had been taken into the hospital, and I would refer them to the necessary ward where they belonged.

Q You are not able to tell the court at this time approximately what was the average number of sick who reported to sick call?

A That varied a great deal. I can't give you any figures on that.

Q In your judgment, Colger, was the number great or small?

A At the beginning, of course, it was rather large. It corresponded to the bad state of health of the people.

Q This bad state of health was contributed to by the malnutrition that existed there, is that not so?

A No, they had already arrived in the camp in that condition.

Q Even though they had arrived in that condition, the food they received there was not adequate for their treatment, is that not so?

A The food was not bad.

Q It was adequate for the prisoners, is that correct?

A It was sufficient.

Q The clothing that the prisoners had was also one of the factors that contributed to the high mortality rate, is that not so.

A As I said before, the cause of the mortality rate is to be traced back to the influences that came from the outside.

Q When did these transports come in that you are talking about?

A I can remember one transport that arrived in the middle of February, but I can't remember the others.

Q How many were on that transport?

(Colger-cross

A I don't know that either.

Q Well, approximately.

A I don't know anymore.

Q Was it as many as 500?

A I can't tell you anymore.

Q You mean you have no judgment at all as to the number of new arrivals that came into that camp?

A I can't remember anymore. That has gone out of my memory.

Q Has it gone out of your memory that you were supposed to delouse these people before they came into the camp and were separated into the various blocks?

A Of course, they were deloused.

Q You don't know how long it took to delouse them.

A The people were deloused very often and so I can't give you any definite dates on that.

Q Did this transport that came from the East arrive in more than one train section?

A I don't know that anymore, either.

Q Do you remember the transport that came from Gross Rosen?

A I can't remember that. I don't know when that was supposed to be. I believe that was the one which came in the middle of February but I don't know exactly.

Q How many came from Flossenburg?

A I don't know that either, anymore.

Q Did any come from Flossenburg?

A I don't know anymore.

Q You don't know whether they came from the East or not is that true?

A I only know that the people which came in the transport from Gross Rosen came from the East but I can't remember anything else.

Q Would 2000 people be the approximate size of the transport that came from Gross Rosen?

A I don't know anymore.

Q You testified that the medicines were sufficient. Can you give the court any idea of approximately how many people died from typhus fever?

A At any rate the mortality rate of those who died because of typhus exacticamus, Fleck fever, was below the mortality rate.

Q Wasn't it a fact the the long workhours, exposure and malnutrition were the prime causes of death in Hersbruck?

A No, because by actually looking at the statistics which we made in the hospital, they probably aren't in existence anymore, we made a report on the number of people who were sick and reported. The number of sick people were reported and the type of illness which they had was designated with curves and the mortality rate was also put down in writing.

Q How long would a patient in the hospital remain there before he went back to work, on the average?

A The people who were recovering would go to a so-called convalescent block. That was a barracks with 400 beds, and in this convalescent block they would stay from two to four weeks when they would get extra good food rations.

PRESIDENT: Court will adjourn until 1:30 this afternoon.

(Whereupon the court adjourned at 1200 hours)

Ts-600-11/14
1of-1
Flossen

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Colonel Wilson and Dr. Engelhorn, who are absent on business of the accused, all the accused are present with the exception of Losch, Oswalt, who are ill, and Wolf who is conferring with his counsel. The interests of those named accused who are absent are being taken care of by their counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave at this time.

PRESIDENT: Continuation of cross examination, Mr. Denson.

HANS JOACHIM GEIGER, called as a witness for the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION (Continued)

Q Geiger, in this convalescent block, the prisoners did not wear clothes, did they?

A That isn't right.

Q What did they wear?

A Everybody had his trousers, his shirt; whatever they were supposed to wear—regular clothes.

Q You mean to tell this court that they had shoes and underclothes and trousers and jackets and shirts?

A They wore shirts and trousers. What I mean to say is—

(Geiger-Cross)

Q Are you through with your answer?

A Yes, I haven't got anything else to say about that. I don't really understand your question.

Q Were you ever in a convalescent ward or block?

A Every day, yes.

Q You saw the dress that the prisoners had there in the block?

A Yes.

Q They were fully clothed with regular garments when you saw them?

A Yes, of course.

Q Did they have shoes?

A That all depended on whether they were lying in bed.

Q Those that were not lying in bed, did they have shoes?

A Of course.

Q How much fever would a prisoner have to have before he was admitted to the hospital?

A Anybody who had the least increase in temperature—anything above 37. We did that because this typhus examtinations was present there and we did it in order to nip any fever cases in the bud. If that had not been done, it would have been impossible to keep the mortality rate down below the average norm.

Q Do you know now what the average death rate was due to typhus fever?

A It could be 15 to 20 percent, approximately.

Q You mean that of the entire camp or those who had typhus fever?

A I don't understand your question there now. I am talking about the general mortality rate not connected with the camp, 15 to 20 percent.

Q I am talking about the typhus fever that you had there in the camp. What was the average daily death rate.

A It was around 10 to 12 percent.

(Geiger-Cross)

Q Again I ask you, was this 10 or 12 percent of those who had typhus fever or 10 or 12 percent of the population of the camp?

A 10 to 12 percent of those who suffered with typhus exantimaticus.

Q Anyone who had fever in excess of 37 degrees was admitted to the hospital, is that correct?

A Yes, but of course anybody who didn't have any fever and still had inflammation of the throat would be accepted also.

Q Then is it wrong to keep persons who have fever of 39 degrees out of the hospital?

A Of course.

Q That was never done in Hersbruck when you were there, is that right?

A No, I know of no such incident.

PROSECUTION: No further questions.

PRESIDENT: Redirect? Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Please tell the court briefly what steps were taken in order to do away with this typhus exantimaticus epidemic.

A First of all, every case, where typhus was in the least suspected, was isolated. And they were isolated independently from those who had already been marked as sick with the illness and then in every case where typhus was suspected, blood specimens were sent to Erlangen.

Q Why did they send them to Erlangen especially?

A Because Erlangen is a Hygienic Institute where the specimens are checked for typhus exantimaticus and Schwarz also placed a messenger at my disposal for this purpose. It would be dependent upon the necessity of the case; if the blood had to be sent quickly; you couldn't send it through the mail because you couldn't be sure of the result and the lists of the people who were examined in regard to typhus cases probably would still be checked at Erlangen.

Q Speaking generally, would Schwarz take interest in such matters?

A Yes.

Q Were you the director of the hospital of Hersbruck or were you not?

A I was the assistant doctor of the chief doctor of the staff, Doctor Ehrlich.

Q I am coming back to this incident which took place in Mauthausen when this reproach was made. Did you have any chance to say anything about it?

A Ziereis once called me to Mauthausen to make a report and I explained what relation that had to this accusation.

Q At that time, did you acknowledge these reproaches which were made to you or did you object to them then--the reproaches which were mentioned today?

A I objected to them very strongly with perfect right because a man such as this leader of the camp wasn't in any position to judge such matters. He couldn't allow himself to pass a judgment over our medical activity there at all.

Q Did Schwarz know anything about the place in Mauthausen?

A No, we never spoke about that.

Q Someone just called my attention to the fact that you wanted to say something further about the steps that were taken to combat this typhus exanthematicus. Do you have anything to say about that now?

A It is clear that as soon as they established that typhus exanthematicus was coming in an epidemic everybody was deloused immediately and a quarantine was set up and this quarantine stayed in effect until the entire delousing had been completed.

DR. WACKER: No more questions.

PRESIDENT: Recross?

PROSECUTION: No further questions

WITNESS GEIGER: May I say something else?

(Geiger-Redirect)

PRESIDENT: The court will give you an opportunity later.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q How long were you at Obertraubling?

A Just one day.

Q Now you have testified that you found facilities there as being sufficient at that time of your visit.

A Yes.

Q Did you mean by that that you found these facilities were sufficient when you first arrived or during the course of your visit?

A The first impression that I got of the supplies were that they were clean; everybody had a bed; they all had mattresses with straw or else straw was spread across the mattress.

Q You found it necessary to bring additional medicine and bandages to that place, didn't you?

A They had already been asked for and I just drove along in this truck with these things. I didn't know at that moment that Obertraubling existed at all.

Q You mean by that that this medicine and bandages had been previously requested or requisitioned by this particular camp?

A That had already been asked for and they had already taken care of that matter in Flossenburg.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q That reprimand you got, was that given to you orally or written?

A Written.

Q At Hersbruck, was there a special ration for the sick?

A We had an authorized extra ration for 400 people who were sick. We got it from the ration office.

(Geiger-Court)

Q What kind of clothing did these patients in the convalescent wards wear, did they wear hospital clothing or a regular uniform?

A The sick people wore the hospital clothing, the ordinary clothing which everyone wore in the hospital.

Q Were you the senior doctor there at night at Hersbruck?

A No, I had the rank of a staff physician and over me was Ehrlich who was the staff physician, the chief staff physician.

QUESTIONS BY THE PRESIDENT:

Q How often did Schwarz get around and inspect the hospital facilities of Hersbruck?

A I can't tell you anymore. He was there rather often.

Q Did you see him around very often inspecting the hospital, or not?

A Yes, and especially we were always building and expanding the hospital.

The hygienic conditions were discussed and plans were made and specialists were called in from the outside; they were asked for in order to check up plumbing installations and showering installations.

Q Were you required to get around and inspect these various installations in Hersbruck?

A No.

Q Were the messes ever inspected in Hersbruck?

A Of course, the food was examined daily.

Q By who?

A Dr. Ehrlich, the chief staff physician.

Q Did he inspect the messes and kitchens also?

A The kitchens.

Q Do you know how often Schwarz got around and inspected these kitchens?

A As far as I know, he was always there. Once a day, at least.

(Geiger-Court)

Q Did you inspect kitchens also?

A I often went along with the chief staff physician, Dr. Ehrlich.

Q How often did you meet Schwarz in these kitchens?

A A number of times, I don't remember exactly.

Q How often did you meet Schwarz inspecting the various hospital facilities?

A I can't tell you anymore exactly.

Q Once a month, once every two months or what?

A At least once a week and he constantly kept in touch with the progress that the additional building was making.

QUESTIONS BY COLONEL BURGHAM:

Q What was the basic cause for these respiratory deteriorating diseases?

A Part of them were people suffering with tuberculosis and then cases of pneumonia always occurred there. There is always a certain percentage of pneumonia wherever people are congregated together.

Q What happened to the tubercular patients?

A They were in a special ward. You do much in such cases. You have to keep the patient quiet and if possible give them extra special rations.

Q Did you ever go through the barracks, that is, aside from the hospital?

A Yes, we also made inspections of health through the barracks in order to check up and see whether any skin diseases were breaking out.

Q On these inspections, did you pay any attention to the matter of the heating of these barracks?

A Yes, it was always warm.

Q Did they have a central heating system?

A No, stoves.

Q How many stoves were there in a wing of a barracks?

A I can't tell you anymore. 2 or 4 stoves in one barracks.

QUESTIONS BY THE PRESIDENT:

Q Doctor, you have testified that one-third of the camp was in the

hospital. You were referring to Hersbruck at that time, were you not?

A Yes, that refers to Hersbruck.

Q That means 2000 men out of 6000 men were in the hospital.

A Roughly 2000; that could vary between 1500 and 2000.

Q Now there must have been some particular reasons for conditions of that nature. Can you tell the court the reasons for such a high percentage of men in the hospital?

A That all depended on the large number of transports which came from the outside. The people were in a particularly bad state of health. They had probably been underway for weeks and by taking the steps which we took, we were able to reduce the mortality rate quite a bit.

Q You mean to imply to the court that the main reason for the 2000 in the hospital was due to the fact that these men came in in a weakened and sick condition, is that right?

A Yes.

Q That was the underlying cause of all that.

A Yes, that was the underlying cause.

Q It could not have been caused partly, Doctor, could it, from a lack of nutrition, or rather a state of malnutrition in the camp itself?

A No, never.

Q You are satisfied then, at Hersbruck, that the men got a sufficient amount to eat and of the right quality?

A Yes.

Q The court is not referring to the SS personnel, the court is referring to the prisoners.

A The food portion of the guards there was probably less than the food portions of the prisoners.

Q You are making that statement after you had inspected both types of food?

(Geiger-Court)

A Yes, I myself ate the food that the troops ate.

Q Was that the general policy in that camp, that whenever the SS personnel had the opportunity, they ate the prisoner's type of food?

A No, they were separate kitchens.

Q I meant that you often ate the same food as the SS personnel.

A I constantly ate the food which the troops ate, the troops of the SS.

Q Did you ever try out the prisoner's food?

A Yes.

QUESTIONS BY COLONEL BURCHAM:

Q Over what period of time did you try that out?

A It was constantly checked. I was there during the whole time. It was either checked by the chief staff physician, Dr. Ehrlich, or else I would accompany Dr. Ehrlich on these occasions.

Q You never ate the same portion of the food that the prisoners got though?

A I wrote it down, approximately, as it was. I can't give the exact numbers. I can read them to you.

QUESTIONS BY THE PRESIDENT:

Q Can you give the court any explanation for this outbreak of typhus at Hersbruck?

A Yes, it was brought in by the evacuated transports.

Q Well, you have mentioned about these delousing operations that were conducted after the discovering of fleck fever, didn't you have delousing operations before that?

A Yes, but lice kept cropping up every once in a while. People were constantly being deloused.

Q In other words, you mean to imply that after the discovery of typhus at Hersbruck, the matter of delousing was more fully emphasized, do you?

(Deliberation of Court)

A People were constantly being deloused.

QUESTIONS BY LT. COLONEL SMYLY:

Q Did the medical authorities of the camp officials worry much about the 2000 deaths in the camp?

A The reports, of course, were made to the mother camp.

Q Did you take any steps with the higher authorities to do anything about those conditions?

A In Hersbruck I was in constant touch with the office of health and this additional ration for 400 sick people was authorized.

Q Did the people of Germany know what was going on, the number of deaths in these concentration camps, for example?

A I don't believe so.

QUESTIONS BY THE PRESIDENT:

Q Did anybody from the department of health ever come down and inspect Hersbruck?

A Yes of course. They weren't allowed to enter the camp. That was an order from up above.

Q Did anybody come down from Flossenburg, either the camp commander or any of his staff officers, to make an inspection of Hersbruck?

A As far as I know, the camp commander was there once in a while and the chief physician of the concentration camp was there once.

Q Who was that?

A Dr. Lolling, Colonel of the SS.

Q Did the camp commander from Flossenburg ever bring any of his medical staff to inspect Hersbruck with him?

A I, myself, had been ordered there from Flossenburg, I was there all the time.

Q I am referring to any time the camp commander from Flossenburg came

(Geiger-Court)

down to Herebruck to inspect, then did he bring a medical staff officer with him?

A I don't know whether the main garrison physician was along, or not.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect? Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Was the mother camp, the main camp of Flossenburg, constantly told about the conditions in Herebruck?

A Yes, it was constantly told about them every week. Reports in regard to health matters were sent there. I even dictated them myself.

DR. WACKER: I beg that the witness be allowed to make an explanation now.

PRESIDENT: All right, proceed. Make your statement as brief as possible.

WITNESS GEIGER: I want to come back to this incident in Ebensee again because I was accused of having neglected the camp there. And besides that, it was thrown in my face that I had made the remark that I would rather see a thousand prisoners die than one civilian. I, myself, went and paid more than a thousand marks for medicines which I got privately from private drug stores and by doing that, I violated the campregulations. I got these medicines for the civilian workers and for the prisoners in the camp. In addition, three civilian workers were put to work in the factory, and they got extra pieces of cloth and used them for bandaging material in the camp. After I had left Ebensee, a delegation of the prisoner's doctors who had been there came and thanked me for what I had done for them. Among them was a French professor from Paris. I have unfortunately forgotten his name.

(Geiger-Redirect)

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did you ever at any time inspect the conditions under which these prisoners worked?

A Yes, I once inspected these excavations where they were working.

Q They were not healthy conditions under which they were working, were they?

A That was hard work.

Q They were not healthy conditions under which they were working either were they?

A Well, that is relative.

Q Relative to what?

A That is the way it is in every kind of mine work or stone work. When dynamite goes off, there is always a great amount of dust, and it is clear that every kind of work is not equally healthy.

Q As a matter of fact, this high death rate existed among those prisoners who had formed this excavation work, is that not true?

A Well, I don't have any kind of statistics in that regard. I don't have any copies anymore, so I can't form an opinion about that.

Q These reports that you made to Flossenburg, you were complaining about the conditions there in Hersbruck, is that correct?

A Yes.

Q All right, what was it that you were complaining about.

A Flossenburg or Ebensee.

Q He made the report—I withdrew that question.

Q These reports that you sent in from Hersbruck to Flossenburg, what was it that you were complaining about?

(Geiger-Recross)

A I always pointed out the lack of medicine. I always referred to the fact that replacement of clothing and shoes should come, and I constantly passed on the complaints which came from the staff of the armament works that so many people were absent from work due to sickness. It was always my opinion that my work was purely a doctor's work.

Q Didn't you testify this morning that you had sufficient medicines at Hersbruck?

A Part of the necessary medicines were missing such as sulfa drugs.

Q Didn't you also testify this morning that the clothing was adequate for the prisoners?

A Well you have got to draw into consideration that some of it was always being used up and you always had to take care that you had the necessary supply coming in.

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court? Apparently not. Anything by the defense?

The court understands that the defense is finished with this particular witness. The witness will be excused.

(Whereupon the witness was excused and left the courtroom.)

DR. WACKER: The defense calls as its next witness, Heinrich Gissler.

HEINRICH GISSLER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Heinrich Gissler.

Q Please spell it.

A H-e-i-n-r-i-c-h G-i-s-s-l-e-r.

(Gissler-Direct)

Q How old are you?

A 50 years.

Q Are you married?

A Married.

Q What is your civilian profession?

A Book dealer.

Q Where do you live?

A In Sedemeiller.

Q Where are you located at the present time?

A In cage 3.

Q Are you in arrest here because of American authorities?

A Yes.

PRESIDENT: The court advises you that if at any time you should be asked any questions which might tend to incriminate you, you have the right to ask the court to refrain from answering that particular question. Do you fully understand?

WITNESS GISSLER: Yes, sir.

QUESTIONS BY DR. WACKER (Continued)

Q Were you ever in Hersbruck?

A Yes.

Q What period of time?

A From the first to the ninth month, 1944, until the 13th of April, 1945.

Q In what capacity were you there?

A I was a private first class, or as it is called in the SS, a corporal.

Q Did you have any definite duties to do in Hersbruck?

A For the first four weeks, I was a guard and until the 13th of April, 1945, I was in the ordnance department with the guard of the company.

Q Who was the commander of the camp of Hersbruck when you were there?

(Gissler-Direct)

A First when I was there, it was a certain Fuegner.

Q Who followed him?

A Then it was a certain Foerster.

Q Who followed him?

A And then Mr. Schwarz, starting with the beginning of December.

Q Would you be able to recognize Schwarz?

A Yes.

Q Please point him out.

A Here he is. No. 43 (indicating).

DR. MACKEN: Let the record show that the witness has identified Schwarz in the dock as No. 43.

Q Was there any difference between Foerster and Schwarz?

A An inmate in general in 1945 said that as far as the prisoners were concerned, things had gotten better since Schwarz had taken over.

Q I am now coming back to the evacuation march. Did you hear Schwarz give any orders in regard to the evacuation march?

A It was either--somewhere between the 5th and 12th of April, 1945, between either block 2 or block 3, before they fell in, I don't know which, but before they left and before the guards had taken over command there, Schwarz had directed a few words to the guards.

Q Did you overhear what Schwarz said at that time?

A During the time that Schwarz was talking to these people, I came out of the quarters into the yard.

Q What did you hear?

A He said that if any people got sick on the way during the transport march, then those people were to be put on wagons and taken along and they were supposed to pick up those vehicles from the civilian population when we passed, passed along the way.

(Giesler-Direct)

1ef-16

Q What else did you hear?

A Then I heard the one sentence. I remember exactly. It either read "There will be no shooting or no one will do any shooting."

Q To whom did Schwarz tell what you just told us?

A He told that to the guards. He was standing in front of the guards.

Q Was this when the people were ready to march off?

A That was just before they were ready to march. The guards still had to go over and take over command of their blocks.

Q Do you know to which marching block these people belonged?

A It was either block 2 or 3, I don't know exactly.

Q To how many people did Schwarz direct these words?

A I don't know exactly, but roughly it could have been 40 or 50. I don't know exactly.

Q Did you personally take part in the evacuation march?

A No.

Q How did you leave Hersbruck, or were you taken captive in Hersbruck?

A I received the following order in Hersbruck: On the evening, at 9 o'clock, of the 13th of April, I received an order to catch up with the first four marching blocks which I did with a bicycle, and for each particular column, I had an envelope which was sealed and I presumed that it contained a marching order. I couldn't read it myself of course because it was sealed.

Q To whom did you turn over these envelopes?

A I had to catch up to these marching blocks with my bicycle. They told me exactly where each block would be and I had to turn over one envelope to each of the columns. The last column was in Schmidmühlen.

Q What do you mean, "the last one"?

A No. 1. That was block 1 which was at the greatest distance.

Q When you left, how many marching blocks were already underway?

(Gissler-Direct)

A Four.

Q Altogether, there were how many?

A Five.

Q Do you know what happened to the marching block, the fifth block?

A I never saw it.

Q During your trip, did you see any dead bodies?

A No, I left that evening with my bicycle and drove through the night and the next morning I arrived in Schmiedsmuehlen. There I met Mr. Schwarz and then Schwarz left Schmiedsmuehlen and went on with an automobile.

Q Who gave you this order to carry these envelopes on?

A Carry them on? I was already through with my order.

Q I mean, who gave you the order in the first place?

A Mr. Schwarz gave me that order.

Q Mr. Gissler, will you please explain why Mr. Schwarz gave you orders to carry orders on bicycle when Mr. Schwarz himself was already in Schmiedsmuehlen?

A I left in the evening of the 13th with my bicycle and Schwarz didn't leave until after I left and after I reached Schmiedsmuehlen, Schwarz arrived later. Then Schwarz left Schmiedsmuehlen and went on again and I stayed in Schmiedsmuehlen.

Q Did you see any people who were sick and couldn't continue on the march?

A I didn't proceed with the column anymore. I went on with a single comrade of mine and near Albensberg, I saw a wagon with sick on it and food.

DR. WAGNER: That is all.

PRESIDENT: Cross examination, Prosecution.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q You say you were told by an inmate that conditions in the camp got better in 1945?

A Yes, that was a man who was interned and he often came into the quarters of the company. This man, this internee had often done repairs on plumbing installations and so forth.

Q Did you know a man there by the name of Hunn?

A Hunn? I heard that name here. He is supposed to be a campeldest.

Q Did you know the camp eldest there in Hersbruck?

A I knew him but I didn't know his name then. I didn't find out his name until I got here.

Q Was he the campeldest there in Hersbruck the whole time you were there?

A He was already there when I got there and he stayed until the end.

Q Was he a very brutal man?

A He didn't appeal to me.

Q Was he a very brutal man?

A According to the testimony of the internee, he was brutal.

Q Schwarz was the commandant of the camp during the time he was campeldest, was he not?

A Yes.

Q Schwarz did not remove him, did he?

A No, not that I know of.

Q Everybody in camp knew that this man, Hunn, was a very brutal man, did they not?

A Yes, I could only find out about it through the internees themselves.

Q You were blockleader in Hersbruck, were you not?

A No, I was in the orderlie department of or with the guard company. May I say something else?

Q Yes, go ahead.

A In January, 1945, the technical sergeant in the company asked me whether I wanted to take a job in the camp. I said that I would waive any duty

or any job in the camp because that didn't correspond to my taste and I didn't want it.

Q Why not?

A I was working with the orderlie department and I didn't want any duty in the camp because it didn't appeal to me and even though they said I would have a more independent job, I said I would waive this job and stay with ordnance.

Q You didn't want this job in camp because you didn't see all the mistreatment and beatings and malnutrition that existed there?

A I came from the Wehrmacht, from the Army, and when I arrived in Hersbruck I was unpleasantly surprised and in September, 1944, I had already asked to be transferred again.

Q Well, will you answer my question. The reason why you didn't want to take this job in January, 1945, was because of the existence of the mistreatment and beatings of the prisoners and the starvation that took place there in the camp?

A When they first offered me this job, I knew that duty in the camp would not be pleasant and then I turned it down. I wasn't fitted for this job. Why? Because I came from the Wehrmacht and I didn't want to play camp policeman in the camp.

Q You mean by that, you didn't want to be exposed to seeing all these prisoners being beaten, starved and mistreated?

A No, I wasn't fitted for this job in the camp. I never would have made out.

Q You mean you had to be able to see beatings and mistreatment and starvation in order to take this job?

A I couldn't know that. I couldn't know what was going on in the camp because I had never been in there.

Q You stated that you came from the Wehrmacht and you were not suited to that type of duty. Now how, actually, was that type of duty so different from

that what you had in the Wehrmacht?

A Well, when we were in the Wehrmacht, we were soldiers and we weren't accustomed to standing guard over people as you do in a concentration camp.

Q You mean these men who had concentration camp duty there were not soldiers, is that right?

A The term "soldier" as we understood it in the Wehrmacht, didn't correspond to that, no.

Q Is it not a fact that you knew that beatings and mistreatment and starvation was going on in that camp and that is the reason why you didn't want to take that job?

MR. MC KAY: Question is objected to as repetition.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION (Continued)

Q You stated that you knew what that job was of being a blockleader in the camp, is that correct?

A That I knew what?--I turned down this job in the camp because I knew that for instance a blockleader in the camp would have to be responsible for giving orders in his block--power of command.

Q You were a soldier, were you not?

A Yes.

Q Then you were accustomed to take and give orders, were you not?

A Yes.

Q Well, that was not anything any different from what you had been doing in the past, is that not so?

A In what past do you mean?

Q As a soldier in the Wehrmacht.

A In the Wehrmacht, yes.

Q So that if the duty you would perform as blockleader in the camp was the same as the duties you had in the Wehrmacht, tell the court why it was that

you didn't want that job?

A I did not draw any comparison between, or I didn't say that the services which we performed in the Wehrmacht were the same as the duty which we perform in the concentration camp.

Q Describe to the court the differences in that service?

A For example, as a soldier--

DR. WACKER: --I will have to object to this question. It has nothing to do with the direct examination.

PROSECUTION: May it please the court, the point is this. He has testified as to improvements in the camp. I am trying to show by testimony of this witness that conditions in this camp were not such as to sustain the conclusion that he has given with respect to what an inmate told him. I would be willing to do this, may it please the court. I will withdraw the question and ask one question if I can get a yes or no answer to it.

DR. WACKER: I will have to object to that immediately. Perhaps it will be such a question that can't be answered yes or no, and I ask that the witness then answer the present question.

PRESIDENT: The court desires to expedite this matter as far as the particular witness is concerned. Proceed, prosecution.

QUESTIONS BY PROSECUTION (Continued):

Q Is it not a fact Mr. Gissler that the reason that you did not want the job as a blockleader in the camp at Hersbruck was that you would see the beatings, the mistreatment and starvation of the prisoners that were interned?

MR. MC KAY: The question is objected to as repetition. That has been answered before.

PROSECUTION: May it please the court, that is just exactly my point. He has gone all around the question in answering, but he has never answered it. I am trying my best to bring him back on the point.

PRESIDENT: Objection overruled.

(Gissler-Cross)

QUESTIONS BY PROSECUTION (Continued):

Q Answer the question yes or no.

A Whether I knew that? No.

Q Is it a fact that one of the reasons why you did not want to be a blockleader in Hersbruck was because you did not want to be exposed to seeing the beating, mistreatment and starvation that the prisoners were undergoing?

DR. WACKER: I would like to have the court instruct the witness that he is not forced to answer this question with an yes or no answer and that he can also make an explanation.

PROSECUTION: All I want to know is: Is it a fact or is it not. He can give the explanation later.

PRESIDENT: The question will be answered. The witness will be given an opportunity at a later period to make any explanation necessary.

The witness is directed to answer the question either Yes or No, and at a later period designated by the court, the court will give you an opportunity to make any explanation necessary.

WITNESS GISSLER: I didn't know the details of the things going on in the camp.

PRESIDENT: Just a minute. The court directs you to answer either Yes or No to the question.

WITNESS GISSLER: I did not know these facts in detail.

PROSECUTION: You were not asked that question. Reporter, please read the question.

INTERPRETER: I have it.

(Whereupon the Interpreter repeated the previous question.)

QUESTIONS BY PROSECUTION (Continued):

A I don't understand the question.

DR. SACHER: I would like that the possibility be drawn into consideration that the witness might possibly give an answer to this question "yes and no" or just "Yes" or "No" because some questions cannot be answered with yes and no separately.

PRESIDENT: The question will be answered either "Yes" or "No". If necessary we will have the question repeated again.

QUESTIONS BY PROSECUTION (Continued):

A I don't quite understand the question. Please repeat it again.

(Thereupon the Interpreter repeated the previous question.)

A I didn't want to become blackeldast, no. I can't answer that because I didn't know these facts.

PROSECUTION: No further questions.

PRESIDENT: Then the court understands your answer is "No."

WITNESS GISSLER: Yes, I must answer with a "No".

PRESIDENT: The court will take a half-hour recess.

(Thereupon the court recessed at 1500 hours.)

G - Dachau, Germany
November 12, 1946

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTOR: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all of the personnel of the defense are present with the exception of Lieutenant Colonel Klein and Dr. Ingerson who are absent on business of the accused, and all of the accused are present with the exception of Koch, Cowell, Buchen, Lauer and Sudeneige, who are ill, and Wolf, who is conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom.

PROSECUTOR: Continuation of cross examination. Colonel Dwan?

MAJOR GENERAL [illegible], called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter, as follows:

CROSS EXAMINATION (Continued)

BY LIEUTENANT COLONEL DWAN:

Q. Did you ever a commando leader in Flossenburg?

A. No. I would ask if he was in Ferslruck, not Flossenburg.

Q. Were you ever a commando leader in Ferslruck?

A. No.

(Giesler - Cross)

Q Were you ever a commando leader in Flossenburg?

A No.

MR. McKAY: That is objected to as being beyond the scope of the direct examination.

PROSECUTION: I want to find out who he is.

PRESIDENT: The question has already been answered.

MR. McKAY: I move to strike the answer then.

DR. WACKER: The answer was "No".

MR. McKAY: I withdraw my objection.

PRESIDENT: You are withdrawing your motion also?

MR. McKAY: --And my motion also.

PRESIDENT: Proceed, Mr. Denson.

PROSECUTION: Nothing further.

PRESIDENT: Redirect? Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Gissler, was the beating of prisoners allowed in Hersbruck according to the guard regulations that you received in Hersbruck?

A It was not allowed.

Q What happened to the SS men or guards who beat prisoners nevertheless?

A They were punished.

Q Do you know anything about such cases of punishment?

A It had been posted at the bulletin board several times that a man had received four or five days; in any case that he had infringed the laws of the guard regulations.

Q You talked about a bulletin board. What was that?

A It was a blackboard which was directly when you entered the billets on the first floor.

(Gissler - Redirect)

Q Please give the court an exact description of the things posted on it?

A It was a blackboard of about one meter and fifty square, and the exact words of a sentence imposed upon this SS man in a case of violation was posted on it.

Q Were these sentences or punishments posted there whenever an SS man had beaten?

A I do not know the names of these various cases but I do know that people were punished there while I was there because of these offenses, but I don't know their names any more.

Q I want to know if those were beating cases or other cases?

A If an SS man or a guard had violated his regulation then he would be punished. For instance, when that happened on his place of work, when he had pushed or attacked the prisoner.

Q Do you know anything about more severe cases that might have occurred in this connection?

A I can't remember severe cases.

DR. WACKER: No further questions.

PRESIDENT: Recross?

PROSECUTION: No questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COLONEL BURCHAM:

Q Who was the camp commander when these violations occurred?

A That must have been in January or February when Captain Schwarz was in command.

(Gissler - Court)

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

DR. WACKER: No.

PRESIDENT: Recross?

PROSECUTION: No.

PRESIDENT: The court understands the defense is finished with this particular witness?

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: The defense calls as its next witness Johann Mueller on behalf of the accused No. 43.

JOHANN MUELLER, called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Please state your full name.

A Mueller, Johann.

Q How old are you?

A 39 years old.

Q Are you married?

A I am married.

Q What is your profession?

A Farmer.

Q Where do you live normally?

A Goeppingen.

Q Where are you at the present time?

A Erding, near Munich.

Q I mean where you had been during the past few days or weeks?

A As you know, Dachau special camp, barrack 17.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: You are advised that should you be asked any question that might tend to incrimate you that you have a right to refrain from answering that particular question. Do you fully understand that?

THE WITNESS: Yes.

PRESIDENT: Proceed, doctor.

QUESTIONS BY DR. WACKER:

Q Have you ever been in Hersbruck?

A I was sent to Hersbruck.

Q From when to when?

A September 2nd to the capitulation.

Q What years?

A Half a year.

Q I mean September of what year?

A From the 2nd of September 1944 until the capitulation the 3rd of May when I was captured.

Q What year was that?

A I was captured the 3rd of May 1945.

Q When you state that you had been sent to Hersbruck, where had you been before?

A I was with the Luftwaffe before--the air forces.

Q And what became of you in Hersbruck?

A I was to do duty as a guard in Hersbruck but I was not accepted because I was not capable of doing duty.

(Mueller - Direct)

Q What did you become then at Hersbruck?

A Then I was sent to the O. T.

Q What does that mean—"O.T."?

A The O.T. was a construction group in Germany.

Q Is that the organization Todt?

A Yes.

Q Did you become a member of the SS?

A I was not transferred into the SS.

Q What was your task in Hersbruck?

A I was a liason man between the O.T. and the guard company.

Q Under whose command were you in Hersbruck?

A I can't actually answer this question.

Q You must know who gave you orders?

A I received orders from three places but never knew which was my competent higher authority.

Q Please, then, tell us all about these three places?

A One was the O.T. organization in Nurenberg; the guard company, Hersbruck; the SS staff, Hersbruck.

Q Who was the leader of the camp of Hersbruck?

A There were several leaders there in Hersbruck while I was there.

Q Who were they?

A A certain first lieutenant whose name I can't recall at the present time.

Q Who was the next one?

A The next one was Captain Schwarz.

Q Would you recognize Schwarz if you would see him again?

A Yes.

(Mueller - Direct)

Q Please point him out.

A 43 (Indicating).

DR. WACKER: The witness has pointed out No. 43 as being the accused Schwarz.

Q When did Schwarz arrive in Hersbruck?

A In February I saw Schwarz for the first time.

Q Did you have any connection with the interior channels of Hersbruck?

A I didn't have anything to do with the camp.

Q Did you have anything to do with the evacuation march at the camp of Hersbruck?

A Yes.

Q When was this evacuation march?

A In April 1945.

Q Do you know the date?

A The 12th or 14th of April.

Q What job did you hold during the evacuation march?

A I had a marching column under my command and I had to march back with the prisoners.

Q What marching column did you have?

A I marched with column 3 or 4.

Q You say 3 or 4. Were they numbered marching columns at that time?

A I don't know whether you can call them by any numbers because the marching columns overtook each other at times.

Q How were the marching columns designated at that time, by their command leaders, by their detail leaders, or by numbers?

(Mueller - Direct)

A Three were designated after their commando leader.

Q Who had the first block?

A If I can recall right it was a First Sergeant Harr.

Q The next one?

A First Sergeant Ostertag.

Q Who else had a column?

A Then next was the column Mueller, and then there was another marching column which marched also along, but I don't know what the name of it was.

Q Are you the Mueller you have just designated as the name of one of the columns?

A Yes.

Q How many blocks were there altogether?

A Five blocks, as far as I know.

Q Who had the last column?

A I never saw it.

Q Do you know a column leader by the name of Kirsch?

A That is the name I didn't know.

Q Do you know one by the name of Methling?

A Methling, yes, but I only know those names from hearing them.

Q How many prisoners were in each of these five columns?

A 400 to 500 in each column.

Q What orders did you receive before you marched off from Hersbruck?

A I received orders that I was to march with the prisoners in the direction of Lauterhofen.

Q Were there any other orders?

A Furthermore I received orders that I was to give instructions according to my own instructions that I had received, that I should instruct guards about the fact that nothing of a bad nature was to happen and that the shooting would be forbidden altogether.

Q Anything else?

A I received orders to get vehicles from farmers or the local farm leader, to get vehicles from them so I could take the sick prisoners along.

Q Were there any other orders?

A And that the food would be taken along by vehicles and brought up on the way, and that we would receive other orders on the way also.

Q You just stated that you had orders to instruct the guards. Did that happen?

A Yes.

Q How many guards did you have?

A About fifty (50) guards.

Q Where did you go to?

A The first day I marched to Lauterhofen. There we rested for three days and then we went to Schmidmuehlen. That was the second place.

Q How did you get food on the way?

A Until we reached Schmidmuehlen we received our food. After that it didn't catch up with us any more.

Q Where did you get the food from?

A From Hersbruck.

(Mueller - Direct)

Q How did you get food after leaving Schmidtmuehlen?

A I had a bicycle because I was wounded during the war and I went ahead with my bicycle and got food from the local farmers or farm leaders.

Q Did anything unusual happen on the way to Schmidtmuehlen?

A In general nothing unusual happened with the exception of one case of death among the prisoners when we took a rest in Lauterhofen.

Q What happened to the sick people and those who couldn't march on between Hersbruck and Schmidtmuehlen?

A The sick people were taken along in vehicles.

Q How far did you take along these sick people?

A These prisoners were taken along until the capacity of the vehicles was not sufficient any more to take any more prisoners along, and then they were left behind. The first prisoners were left behind in Schmidtmuehlen.

Q Where did the march lead to from Schmidtmuehlen?

A We then from Schmidtmuehlen went to Saal near Regensburg.

Q Did anything happen between Schmidtmuehlen and Saal—anything unusual?

A Nothing happened. No one fell out or anything else.

Q No people had sick feet?

A Yes, they were taken along.

Q What happened to those?

A They were taken along to the camp Saal.

Q What happened to them then?

A In Saal other prisoners who had reported that they were sick were taken out and they all were put on a train and sent here.

Q Did you yourself see that?

A Yes.

Q Who loaded them?

A Captain Schwarz and a Luftwaffe doctor loaded them on a train.

Q Did you see Schwarz between Hersbruck and Saal?

A Yes, he came around twice, three times or four times each day.

Q What happened after leaving Saal?

A From Saal the transport went to Dachau. We stopped once more about 30 kilometers from Dachau.

Q Did anything unusual occur there?

A At the village of Abensberg the column was attacked by airplanes.

Q What happened during this air raid?

A Because of this air raid we had eight to ten dead and about just as many wounded, also among guards.

Q What happened to the dead and wounded?

A The dead were buried and the wounded were under the supervision of Captain Schwarz and the Luftwaffe doctor, and taken to the hospital in Abensberg.

Q Did you yourself go through the air attack?

A No.

Q Where did you get your knowledge?

A I heard about it from a car which passed me.

Q How did the march end?

A The rest of the prisoners, that is to say those who were healthy went on; the others who had to be taken out in Saal were brought here by train.

MR. McKAY: May it please the court, let the record show that the accused Pachen, Buddensieg and Hausen have returned to the dock.

(Whereupon the three named accused who were absent at the opening of this session resumed their seats in the dock.)

QUESTIONS BY DR. WACKER:

Q Did you yourself go to the place where the air raid had taken place?

A Yes, I then returned to the place of the accident.

Q Did you yourself see what you told us about?

A Yes. The doctor was just putting emergency bandages on these people; he was taking care of them; they were then loaded and taken to the hospital.

Q What did Schwarz do?

A Schwarz stayed there until the end of the funeral for the dead people and until the others had been sent to the hospital. I myself went ahead to make quarters for the night.

Q With how many prisoners did you arrive in Dachau?

A I arrived in Dachau with not quite four hundred (400) prisoners.

Q Did any escapes occur?

A No escapes. However there was a report made from the detail that had taken care of the burial at the place of accident that one SS man and two prisoners had not followed up.

Q Were any prisoners shot to death during the march?

A No.

DR. WACKER: No further questions.

PRESIDENT: Cross-examination? Colonel Denson.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did you go by a place by the name of Ofendorf near Regensburg?

A That name is actually not known to me.

DR. WACKER: I should like to have you speak loud because the witness is hard of hearing — so that he can hear the names clearly.

PROSECUTION: Do you understand English?

THE WITNESS: No.

PRESIDENT: The interpreter then will comply with the request of Dr. Wacker.

QUESTIONS BY PROSECUTION:

Q How many men did you start out with from Hersbruck?

A I left Hersbruck with 400 to 450 men.

Q And you lost approximately 50 on the way, is that right?

A Yes.

Q Your guards were armed, were they not?

A They were.

(Mueller - Cross)

Q They had ammunition for their arms, did they not?

A Yes.

Q How many rounds were they issued?

A I am actually not informed about that.

Q Did you hold any inspection of the men that you used as guards in that transport?

A Yes.

Q Did you ascertain at that time the amount of ammunition that they had?

A They had fifteen to twenty rounds, but not all had the same amount.

Q And were you armed?

A I was armed. I had a pistol.

Q How much ammunition did you have?

A Four rounds.

Q How many days did it take you to go from Hersbruck to Dachau?

A Actually it took four marching days to get from Hersbruck to Dachau, but we had days of resting between. After one day we had three days rest, and in Schmidmuehlen one day, so that we had about four or five resting days.

Q Were all the prisoners equipped with shoes?

A Yes.

Q Were all of them properly clothed?

A They had the blue striped prisoners' clothing.

Q Did any column pass your column on the march?

A Yes.

(Mueller - Cross)

Q What column was it?

A Those were always the columns that marched in front of me, because I would overtake them at times. We always had different quotas for the night and I would march ahead, five minutes ahead of them, and take a rest and then they would overtake me.

Q And you had approximately how many sick prisoners with you on that march?

A Prisoners only got sick on the way; the main trouble was with their feet.

Q Did you notice that any of the prisoners appeared to be emaciated physically?

A I didn't have any trouble the first marching day.

Q When did your trouble begin?

A I had hard times after food didn't reach us any more.

Q When did the shooting begin?

A There was no shooting.

Q How many did you say escaped?

A No one escaped except for the one guard and two prisoners who did not report any more.

Q There was nothing, then, from preventing escapes?

A The guards were not allowed to let anyone get away.

Q Well, they were not allowed to shoot either, were they?

A No shooting order was given; it was forbidden.

Q So if a prisoner wanted to escape he could escape and he would not be shot at, is that correct?

A If someone had escaped they would have used their weapon.

(Mueller - Cross)

Q Well, they were ordered not to use their weapons, were they not?

A Yes.

Q You mean they would have disobeyed orders and shot the prisoner who was seeking to escape?

A You can't state it like that. I had enough guards and young people so that no escape would have been possible.

Q Were any of the guards suffering from the march?

A Guards also suffered.

Q Did you have to carry the guards along in an automobile?

A Guards were transported on the vehicle with the sick prisoners.

Q Approximately how many guards did you have in such condition?

A I had eight of them, but when we took three days rest they recovered again.

Q Did you instruct your guards they were not to shoot any escaping prisoners?

A Yes. They were to try at first to get the prisoners back some other way. Outside of that we marched as a closed column and no escape would have been possible since the column was surrounded by guards, each guard only six paces at the most from the next one.

Q Well, you had 50 men guarding 500 prisoners, did you not?

A Yes.

Q When did you get the order that shots would no longer be made through the head or through the heart?

A I never heard of such an order.

(Mueller - Cross)

Q Never at any time on the march, is that correct?

A No.

Q And no prisoners escaped?

A No.

PROSECUTION: No further questions.

A (Continuing): Prisoners mentioned that the Americans were near and they evidently had hopes so they said, "Well, we can wait".

PROSECUTION: One more question:

QUESTIONS BY PROSECUTION:

Q Have you been advised that you may be an accused in the second Flossenburg case?

A No.

PROSECUTION: No further questions.

PRESIDENT: Questions by any members of the court? Apparently there are none. Redirect?

DR. WACKER: No questions.

PRESIDENT: The court understands that the defense is finished with this witness?

MR. McKAY: That is correct.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: The defense calls as its next witness, Karl Hilpert, on behalf of the accused Schwarz.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

(Mueller - Cross)

PRESIDENT: The court will come to order.

KARL HILPERT, called as a witness for the defense, being first duly sworn, testified through an interpreter, as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Karl Hilpert, H-i-l-p-e-r-t.

Q How old are you?

A I was born the 23rd of September 1903.

Q Are you married?

A Yes.

Q What is your profession?

A Farmer.

Q Where?

A In Laubenzetel.

Q Where do you reside at the present time?

A At the present time I am in cage 3, barracks 211.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: You are advised that should you be asked any question which might tend to incrimate you that you have the permission of the court to request to refrain from answering that particular question. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Doctor.

QUESTIONS BY DR. WACKER:

Q Mr. Hilpert, were you at one time in Hersbruck?

A Yes.

Q From when to when?

A The 2nd of September 1944 I was in Hersbruck.

Q How long?

A I was there until the 4th of April.

Q Of what year?

A In the year of 1945.

Q Where did you come from in 1944 when you were sent to Hersbruck?

A I came from the Air Corps replacement battalion 11 in Neumuenster, in Holstein.

Q And what became of you in Hersbruck?

A In Hersbruck I became an SS rifleman.

Q What was your job there?

A I was a guard with the work detail.

Q Did you get any guard instructions?

A Yes, I received guard instructions.

Q What was contained in these guard instructions pertaining to beatings?

A We had once a week guard instructions and there was also something that pertained to this that said that no prisoner was to be beaten during work or be mistreated in any way, but it was our job to pay attention that none of the prisoners would escape.

Q What happened to a guard who would beat in spite of that?

A Those SS men were punished; there was the so called bulletin board in the company building and cases were posted there. I have read personally in several instances that SS guards received from three to seven days. That only happened while Schwarz was there.

(Hilpert - Direct)

Q When was Schwarz commandant, that is to say, leader of the camp at Hersbruck?

A I can't give the exact day. So far as I remember it was January or February.

Q Of what year?

A 1945.

Q Did you know Schwarz?

A Yes.

Q Would you recognize him if you saw him today?

A Yes.

Q Point him out please, if you can see him.

A Here (Indicating).

DR. HACKER: The witness has pointed out No. 43 as being Schwarz.

Q How many cases have you read on the bulletin board whereby guards have been punished because of beatings?

A I read that five or six times.

Q Did you hear of any severe cases?

A I didn't hear anything about severe cases.

Q Were you present during the evacuation march from Hersbruck?

A Yes, I was with marching column 4.

Q How many columns did you have?

A Altogether five marching blocks.

Q How many prisoners did you have in each column?

A With my column there were four hundred and fifty (450).

Q Who was in charge of this column?

A First Sergeant Mueller.

Q Was that the Mueller that was on the witness stand before you?

A Yes.

Q Did you receive any instructions when your marching column under Mueller left from Hersbruck?

A Yes.

Q What were they?

A The orders were that column A would leave now—I don't recall the day any more; the direction—Dachau; and we heard that all sick people were to be taken to the destination by vehicles and that no things of bad nature should be done, and that any shooting was forbidden.

Q Where did you march to then?

A The direction of Schmidtmuehlen.

Q Did anything unusual happen between Hersbruck and Schmidtmuehlen?

A Nothing unusual happened in Schmidtmuehlen. We left behind one hundred and fifty (150) sick prisoners as well as those who were not capable of going on, as well as older people and older guards.

Q Where did you march to from Schmidtmuehlen?

A We marched on from Schmidtmuehlen to the direction of Saal.

Q What happened between Schmidtmuehlen and Saal?

A Nothing unusual happened during that march.

Q Were there any people who were sick or had sick feet between Schmidtmuehlen and Saal?

(Hilpert - Direct)

A There were people with bad feet. They were left behind in Saal.

Q What happened to those who had sick feet or the people who were otherwise sick?

A They were all collected in Saal and were loaded in the freight cars.

Q Did you see Schwarz between Hersbruck and Saal?

A I saw him frequently. He always took care of his blocks.

Q Where did you march to from Saal?

A In Saal I was separated. I went to the town to buy some food and when I returned the train had gone.

Q What train?

A A transport.

Q What did you do then?

A When I was in Saal I saw that column 5 was arriving, when I saw column 5 marching through there.

Q Under whose command was column 5?

A Under commando leader Methling.

Q What did you do then?

A I joined this column.

Q What happened to this column under Methling?

A The column Methling had the same orders as we had before.

Q And where did you march to?

A They marched through several villages—I don't know the names of those. We arrived at a place fifteen kilometers from Dachau on April 27th.

Q What happened then?

(Hilpert - Direct)

A Because of the approach of the Americans and shooting the column dispersed and I myself was captured on April 29th.

Q What happened to the prisoners?

A The prisoners?

Q What happened to the prisoners of detail Methling?

A The prisoners of this column went into the villages and when I was a prisoner I met several of those.

Q Were any prisoners shot to death in the march from Hersbruck until this column Methling was deactivated?

A No, I did not see anything.

DR. WACKER: No further questions.

PRESIDENT: Cross-examination? Colonel Denson.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q How many men did you leave in Saal?

A Approximately fifty (50) from our column.

Q And you left one hundred and fifty (150) from your column in Schmidtmuehlen, is that right?

A Yes. Approximately—I can't give the exact number.

Q You mean it could be more or less, is that right?

A Yes, I just give an approximate number.

Q Your column came to Dachau in the train, is that right?

A Column 4 went to Dachau.

Q Well, did it march to Dachau or did it come to Dachau on train?

A The ones who had been left from column 4, the ones who had been left behind were taken here by train.

(Hilpert - Cross)

Q Well, what happened to those who could still march, did they march to Dachau?

A They arrived in Dachau.

Q By what means?

A How, I don't know. I didn't go with them to Dachau.

Q You do not know whether they came by train or by foot, is that correct?

A I can't say because I joined column 5 in Saal.

Q Well, did march column 5 come all the way to Dachau?

A It was deactivated fifteen kilometers away from Dachau.

Q Now, what happened to those prisoners that you left in Schmidmuehlen?

A I don't know what happened to them. The guards also stayed behind.

Q They weren't loaded on this train in Saal, were they?

A In Saal, yes.

Q The prisoners that were in Schmidmuehlen were brought down in Saal, is that right, and loaded on the train?

A No, they stayed there. I don't know where they got to.

Q Do you not know that of the four hundred and fifty (450) that started out in your block, four hundred (400) of them got to Dachau?

A Column 5 was deactivated fifteen kilometers away from Dachau.

Q I am talking of your column in march block No. 4?

A I don't know how far column 4 got.

Q Do you not know that there were only approximately 50 or

(Hilpert - Cross)

60 people who were left behind out of column 4, and the balance of them, of 400, got to Dachau?

A Approximately 50 sick people were left behind in Saal in column 4 and they, together with those at Saal, were loaded on the trains in freight cars and then later taken to Dachau. How they arrived I don't know.

Q Well, out of 450 that started there were approximately 200 of them that were left behind, is that correct?

A Yes.

Q So that it is not correct then that approximately 400 of them came to Dachau, is it?

A Column 4?

Q That's right, from column 4.

A I don't know how they arrived in Dachau; I was not in Dachau.

Q Now you received orders from this man Methling, did you not?

A Yes.

Q And you received orders to shoot or not to shoot prisoners when they tried to escape?

A We received orders that we were to shoot upon escape, but they did not say anything about shoot to death.

PROSECUTION: That is all.

PRESIDENT: Redirect?

MR. McKAY: No further questions.

PRESIDENT: Questions by members of the court? Apparently not. The court understands the defense is finished with this witness.

(Hilpert - Cross)

MR. McKAY: That is correct.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: The court will adjourn until 0900 hours tomorrow morning.

(Whereupon, at 1700 hours, the court adjourned until 0900 hours, 15 November 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: Einzelheiten: .....

Second Charge: Zweite Anklage:

Particulars: Einzelheiten:

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

Case No. [redacted]

*[redacted]

*[redacted]

*General

Place [redacted]

Date [redacted] 194 [redacted]

Prosecutor

Defence Counsel

Interpreter

Reporter

Members of Court:

[redacted]

Accused [redacted]

Address

Sex

Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BUCHER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

15 November 1946 Pages 6702 - 6766 incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
BERKMANN, ASRIEL	6702	6704-A	6710	6711, 6717	6712,6717
LONGARTZ, PETER	6719	6748			

EXHIBITS

Number	Identification	Evidence
D-38 (diagram)		6734

DACHAU, GERMANY

15 November 1946.

MORNING SESSION

(Whereupon the court reconvened at 0930 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present with the exception of Col. Jackson, who has been relieved by authority of the appointing authority; the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all of the defense are present; all of the accused are present with the exception of Brach, Oswalt, Wuselgut, Lipinski, Mauser and Lobon, who are sick and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the court room.

DEFENSE COUNSEL (Mr. McKay) May it please the court, the defense has a witness on behalf of the accused Schwarz, No. 48, who arrived early this morning. We didn't know he was coming. He is working in connection with the Jewish Committee in Munich. We respectfully ask the opportunity to present him now, although he is not listed on the list of witnesses.

PRESIDENT: All right; proceed.

DR. MACHER: I call Mr. Berkmann as the next witness.

ASRIEL BERKMANN, a witness called in behalf of the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. MACHER

Q Mr. Berkmann, what is your full name?

A Berkmann, Asriel.

11-15-46
MDM

Q How old are you?

A Thirty-nine years old.

Q Where do you live?

A Munich; Weehlstrasse 19.

Q What is your profession?

A I am a factory manager.

Q Do you have any honorable job at the present time?

A Yes.

Q What?

A I am in charge of the office for distribution of billets and I am a member of the Jewish committee in Munich.

Q Did you get acquainted with a Capt. Schwarz?

A Yes.

Q Would you recognize him if you would see him today?

A Yes.

Q Please look at the accused and see if you can recognize him?

A No. 43.

Q The witness has identified Schwarz as being No. 43. Please tell the court under what circumstances you got acquainted with Schwarz?

A I got acquainted with Schwarz on our march from Dachau to Tirol, about one kilometer away from Waarkirchen. That is right behind Bad Tölz. We were in the woods and there were 3,000 German prisoners, 1500 Jewish prisoners, and about one thousand Polish prisoners. The guards who led us changed all the time and all of a sudden I saw that Capt. Schwarz arrived. I only knew Capt. Schwarz by sight because I had been in another camp. He was in camp 3, I was in Camp 1, Kalfering. But I heard from the Jewish prisoners that he was a decent man. For that reason I had courage enough to approach him and talk to him. The Court must understand that

Berkmann - direct.

by that time all of us were about half dead because we had been marching already for ten days. We also knew about Hitler's decree of April the 20th, that no Jewish prisoner was to be taken alive by the enemy. And since I was the oldest prisoner among the group at that time and took interest in the whole affair, I approached Schwarz. I told him, literally, the following: "Look here, Mr. Schwarz, the game is lost. We might be able to do something for you in your life. See to it that they won't lead us any farther from here, because, according to my opinion and my imagination, the Americans could not be far. I am a man who has lost everything in life, my parents were shot to death, my only child, my brother and wife, and I asked him, Please tell me how far the Americans are away from here. He said The Americans are 25 kilometers from here. I said, you can help us yet. You can help to save the lives of a few people after the German people have committed the crime against the Jews. Mr. Schwarz was willing at that time, for what reasons I don't know. The first aid he gave us was that he took 60 or 70 sick people who were half dead already to the village and he promised me that he would do everything in his power so that people would not be led any further. That was the second of May. The morning of the second of May, five o'clock, he returned and took me and another German prisoner along to the Burgomeister's, to the mayor, of Waarkirchen, and there we were able to succeed that all the prisoners would be housed in barns in Waarkirchen. At 12 o'clock we were still at the burgomeister's place, where we requested food for the prisoners. Then the burgomeister was called that the Americans were one kilometer away. Then Mr. Schwarz took me along and walked to one kilometer where we met an American captain who explained to us that the Americans would be there within one hour. And he said that he was sorry, but that he would have to take Schwarz prisoner. Ever since I didn't see him again.

Berkmann- direct.

Q What happened to the prisoners?

A Then the Americans came and gave us quarters in houses and then we went to Bad Tölz where the Third Army was.

Q Mr. Berkmann, do you recall an offer that you made to Mr. Schwarz pertaining to a document, at that time?

A Yes.

Q What was that?

A I told him that I would give it to him on the written paper and certify what he had done for us in these last hours.

Q Can you tell us what other prisoners told you about Schwarz as commandant in Kaufering?

A I have heard from Mr. Moellert and Mr. Mirschkovitz and other Hungarian Jews that they only talked good about him.

MR. WACKER: No further questions.

PRESIDENT: Cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION

Q Sir, may I have just a second to check documents?

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place.)

(The court, at 0945 hours, reconvened.)

PRESIDENT: Court will come to order.

Q Were you in Kaufering No. 3?

A I was in No. 1.

Q Who was the camp commandant at No. 1?

A In the beginning Foerster. When we arrived Foerster was the commandant.

Q And who was the commandant when you left Camp No. 1?

A Foerstner, a big man.

Q And where did you go to when you left Camp No. 1?

A We went to Dachau.

Berkmann - cross.

Q And when did you leave Camp No. 1?

A The 24th.

Q And you got to Dachau on what day?

A On the 25th, approximately at three o'clock; between three and five, I can't say exactly.

Q Do you know a man named Fritz Degelow?

A Perhaps, if I see him. I can't remember.

Q Who was in command of the transport that you left on when you left Dachau?

A Those were unknown SS men. Men I didn't know. There was only one sergeant present, went from Camp 3. I knew him but I didn't know the others. At any rate, very bad men.

Q Do you know who the commanding officer of the transport was?

A No. When we marched away there was a certain Captain Vilka or Bilka, whatever his name was, he was in charge of everything when we were lined up in the square.

Q How long were you in Camp No. 1?

A From the 15th of July until the 20th of April, but for a certain time I lived in the construction place.

Q Did you know a Dr. Greenberg?

A Yes. My best friend.

Q Was he on that march with you?

A No. Dr. Greenberg stayed back with the sick people in the camp when we marched off. He was liberated at Fuestenfeldbruck.

Q How did you march to Wolfrathausen?

A We marched past Wolfrathausen but at the time we marched I didn't know toward where we were marching, but after the liberation I traveled down that road and I recalled that I had been there during the march and I went past Wolfrathausen.

Q What position did Schwarz hold on this march?

A He took charge of the command in Waarkirchen. Excuse me, near Waarkirchen.

Berkmann - cross.

Q From whom did he take command?

A I don't know the man. He took over from a large first lieutenant. He was a very bad man.

Q Well, Schwarz wasnt commandant at the Kaufering camp, was he?

A What?

Q Schwarz wasn't commandant at any one of the Kaufering camps, was he?

A Yes, at camp No. 7.

PROSECUTION: May it please the court, I suggest that Dr. Wacker quit indicating with his hand answers to be made. I don't think it is exactly fair. I ask a question and Dr. Wacker was sitting over there going like that (indicating) prior to the time the witness answered, and I don't think it is at all proper.

PRESIDENT: Dr. Wacker will be given a chance to answer.

DR. WACKER: Then I am of the opinion that the Prosecution shouldn't ask the questions after the witness has stated shortly before that he heard from other prisoners that Schwarz was a good commandant in Kaufering.

PROSECUTION: There is no limitation on me, whether I ask the question he has answered before or not, but I think it is grossly improper for him to sit over there and prompt the witness.

PRESIDENT: The court feels it necessary to caution Dr. Wacker about that particular matter, however, I think that that manifestation was to the Prosecutor and not to the witness, but Dr. Wacker, you must avoid anything of that nature. Anything of that nature might lead to an indication, as far as the witness is concerned, as to how you feel about a certain matter. Proceed, Col. Denson.

Berkmann - cross

Q Now, Mr. Berkmann, for what period of time was Schwarz commandant over one of these Knuffering camps?

A Repeat that question?

(The question was read by the reporter.)

A So far as I can remember, he was during July and August, commandant there. It was during the first months when we arrived, it must have been July, August, September.

Q What was the number of that camp?

A Camp 3.

Q Do you know what the death rate was in that camp?

A No, I can't say that. I can only say it about Camp 1.

Q Don't you know that the Jewish prisoners in Camp 3 died like flies?

A Yes, I know that. Not only in Camp 3, in all camps. Unfortunately.

Q Now you testified about a decree of Himmler with respect to Jewish prisoners, and do you know of your own knowledge the date of that decree? When you say the 20th of April, is that some date that someone has told you?

A That was an order issued by Himmler which I found out later on; officially ordered.

PRESIDENT: The Court will take a half hour recess.

(Whereupon the court, at 1000 hours, recessed.)

Dachau, Germany
November 15, 1946

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all of the personnel of the defense are present, and all of the accused are present with the exception of Fischbach, Oswald, Russle de Lipinski, Hauser, Fischer and Worst who are ill and whose interests are being taken care of by counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the courtroom who are expecting to be called as witnesses, will they please leave the courtroom.

PRESIDENT: Proceed.

ADOLF BERKMANN, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter, as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION:

Q Prior to the recess we were discussing this order of Himmler's. Now do you know whether or not this decree was issued on the 20th day of April, or was it issued prior to that time?

A That I can't say. I heard about it, and after the liberation much was said about it and written about it.

(Berkmann - Cross)

As a matter of fact, this decree was issued at the time that Gross Rosen, Wolfhausen and Lublin were being evacuated, was it not?

A That I can't say. I couldn't know anything about the evacuations. At that time I was at the concentration camp.

Q So that when actually you said Himmler's decree of April 20th, you do not know whether it was issued prior to that time or not, is that correct?

A That I don't know, but when I took interest in it later on, historically, I found out that such order was given or issued on the 20th of April. It could not be put into reality because the collapse had proceeded so far, but they intended to carry it out.

Q Do you mean by that that no Jewish prisoners were killed?

A No; many were killed.

Q As a matter of fact, there were quite a few that were killed down there in that woods near Wolfratshausen, were there not?

A Yes. I will admit that they could not carry it out as they intended to because the collapse had proceeded too far; otherwise no one would have survived.

Q And that may be the reason why Schwarz was apparently so kind; is that not so?

MR. McKAY: That question is objected to as calling for a conclusion of the witness.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q At the time that Schwarz acted in the manner which you described, the American troops had already taken Dachau, had they not?

A Yes.

Q You had pointed out to Schwarz the proximity of the American troops prior to the time that he agreed to act in the manner in which he had, had you not?

(Berkmann - Cross)

A Yes. That I want to correct. I said to Schwarz, "The game is lost. You can make up for some of the crimes that have been committed on us."

Q You had also promised to give him this document, this paper, prior to the time that he treated you in the manner which you have described, is that not true?

A No; the prosecutor must understand that I would have promised anything to the devil also if I could have saved a few lives that way.

PROSECUTION: No further questions.

PRESIDENT: Redirect? Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Berkmann, when did you have the conversation about this document that you wanted to give to Schwarz?

A That I can't remember exactly. I remember it was in Waarkirchen.

Q Was that before you surrendered or after?

A I believe it was before, but you must understand that I was in such a disturbed frame of mind at the time that I can't remember exactly, and I had gone through so many things that I was surprised to have survived. At that time I had not slept for ten days and nights, so I can't say exactly any more.

Q Mr. Berkmann, you talked throughout your interrogation about a commandant by the name of Forster. You also spoke about a Foerschner. Are those two different men?

A In Kaufering we first had Forster, then we had Langleist, and then Foerschner.

Q Do you know where Forster was sent from Kaufering?

A I don't know where he was sent to from Kaufering, but he had been in Schaulen in Lithuania. He killed very many people there. He carried out action against children there. He did very bad things up there.

Q I don't mean where he came from. What I mean is where he was sent to from Kaufering?

A I don't know.

Q Do you know how long Schwarz stayed in Kaufering?

A That I can't say. I had not been in one camp with him.

Q Did the things you stated about Kaufering go for Schwarz also?

A All of them are responsible. Whether one was more or less responsible I don't know, but all of them are. There was no one who had courage to take the position against the system at that time and to defend something.

Q What do you know in detail about Schwarz?

A What I have stated.

Q I mean in Kaufering?

A I don't know anything about him in Kaufering.

DR. WACKER: Thank you. Nothing further.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q You were asked about Otto Foerschner and Adolf Langleist. Do you know that those two men were hanged for those conducts?

A Yes. In the first trial, that was.

PROSECUTION: That is all.

PRESIDENT: Questions by the court?

(Berkmann - Recross)

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Now, Mr. Berkmann, you have mentioned that Jews died like flies in all the camps.

A Yes.

Q Do you feel that the mortality rate among the Jews in these concentration camps was really any higher than that of any other particular element?

A They activated camps in Kaufering. They brought 15,000 Jews there from the East to annihilate them by heavy work and no food. It is possible that they were not able to put any gas chambers here in the heart of Bavaria, so they tried to annihilate people in that manner.

Q Now, you are not getting to my question.

(The interpreter repeated the question.)

A In Kaufering were only Jews.

PRESIDENT: Just a minute. The court does not desire any detailed statement. The court simply wants you to answer the question. You can answer either yes or no.

THE WITNESS: The mortality rate among Jews was larger because there were only Jews here. There were very few non-Jews--they mostly had supervisory work.

QUESTIONS BY PRESIDENT:

Q You mentioned that "there were only Jews here". What place are you referring to?

A I am talking about the whole district of Kaufering. A few aliens had arrived in the meantime, but they only had supervisory capacity.

(Berkmann - Court)

Flose.

Q Now, relative to your statement about the mortality rate among the Jews, you are referring to German Jews, Polish Jews, Russian Jews, or Jews from all nations; is that correct?

A Yes.

Q Now, Mr. Berkmann, you have testified that there were a number of Jews killed in the woods near Wolfratshausen. Can you give the court a further explanation of that particular statement? How many were killed?

A It was like this: On the march there were guards who would leave people behind who couldn't go on, and there were other guards who shot and killed people who stayed behind.

Q Just answer the court's question. How many Jews were killed in that particular locality mentioned, or do you know?

A That I can't say exactly.

Q Can you make a statement?

A The march stretched for considerable kilometers so that I could not look over the whole thing.

Q Well, can you give the court a statement?

A There were 5,000 to 6,000 people marching and the whole length of the column was about one kilometer and one-half.

Q Just how many bodies did you see in that locality in the woods near Wolfratshausen?

A I buried eleven (11) bodies in the woods near Wolfratshausen where I was; because the SS men didn't allow to do anything on the way.

Q Well, did you see any more dead bodies outside of those eleven?

A No. I only saw that while we were marching people would drop and I also heard later on, shots.

(Berkmann - Court)

Please.

Q Now, of those eleven bodies that you saw, did they come from your column?

A Yes.

Q Just who was responsible for their deaths, do you know?

A Those were people who had been shot and killed. I don't know the people who shot them. I only know that we buried eleven bodies in the morning.

Q Did you see anybody shot personally?

A Yes, of course.

Q How many did you see actually shot?

A That I can't say. All throughout the march I saw shots and heard shots and saw how people dropped. We did not stay in one place all the time but were driven along.

Q Can you tell the court exactly who did the shooting in these cases that you saw?

A No, I can't say that because I didn't know the guards who were along. The guards always changed. Once very bad ones arrived with dogs. It was terrible throughout the march.

Q This shooting was done by the guards entirely, was it?

A Only by the guards.

Q You did not see any of the leaders do any shooting?

A I didn't see the leaders at all.

Q You mean to tell the court that after you observed these various men shot you cannot tell the court the name of a single guard or give the description of a single guard who did that shooting?

A We didn't know the guards at all. You must understand, when we arrived in Dachau they sent our guards from our camps back. Those guards were entirely new.

(Berkmann - Court)

Q Just who was in command of the column during the course of this shooting?

A There were a few sergeants and a few staff sergeants along, but the leaders of the column, the higher ups were always behind in cars and motorcycles. They always came and went away again because they didn't know where to go, since the Americans came from all sides.

Q Let us get down to facts, Mr. Berkmann. Just who was in command of the column at that particular time?

A That I can't say. The last one in charge was Mr. Schwarz. Before him there was a tall, big man whose name I don't know.

Q Was he senior to Schwarz in rank?

A No, I believe he was one rank below.

Q Well then, Mr. Schwarz was in command at that time, was he not?

A After he had taken over on the 30th of April it had the appearance that he was the man in charge because he managed the whole works.

Q You say Schwarz took over the command of the column on the 30th of April?

A Yes.

Q Just where was the column at that particular time?

A In Waarkirchen--one kilometer before Waarkirchen, in the left to the woods.

Q Who was in command of the column previous to that time?

A Before then?

Q The court is referring to your particular column.

A A tall slender first lieutenant. I don't know the man. At any rate, a very bad man.

Q Who was in command of the column when these men were shot--that were sent to Wolfratshausen?

(Berkmann - Court)

A I can't say exactly but at that time I believe a certain Bitke was in charge of the column. He was the one who had taken us out of Dachau. He was a well known murderer.

Q What was the date of this shooting, do you know, in Wolfratshausen?

A The shooting took place throughout all of the march from Dachau but I believe we were at Wolfratshausen, I can't remember exactly, about the 26th of April; the 26th or the 27th they took us out of the woods and returned us there because the road had been blocked off.

Q How long did you remain there at Wolfratshausen?

A We were in the woods near Wolfratshausen about two days. Then they took us away about two or three kilometers and returned us again for the night.

Q Then the court understands that this shooting which occurred around Wolfratshausen took place about the 26th-27th of April, is that correct now?

A 25th, 27th, 28th. The night from the 28th to the 29th they chased us around. It was the worst night I ever went through. They were driving us wildly. Evidently the collapse was near.

Q Now, Mr. Berkmann, you seem to remember some things very well, but when it comes to putting your finger on a certain individual you have a kind of a hazy recollection. Can you tell the court definitely the name of any individual who shot one of the prisoners?

A No, I can't do that because I did not know the guards. Those were not the guards who had been in Kaufering. The court must understand that I certainly would not cover up for anyone who had done something.

PRESIDENT: Further questions by members of the court?

(Berkmann - Court)

QUESTIONS BY COLONEL JACKSON:

Q Where is Kaufering?

A Near Landsberg.

Q Was that an out-camp of Dachau?

A Yes, it's a work camp of one of the sections of Dachau.

PRESIDENT: Any further questions by the court? Apparently not. Redirect?

DR. MACKEN: No further questions.

PRESIDENT: Recross?

PROSECUTION: One question.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q You were asked about the death rate of the Jewish prisoners in Kaufering camps. Is it not a fact that between July 1944 and the end of January 1945 there was almost a complete turnover among the Jewish prisoners in the Kaufering camps because of death?

A Yes, ninety (90) percent.

PROSECUTION: No further questions.

PRESIDENT: Any further questions by the members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Is this Camp Kaufering where you were an out-camp of Flossenburg?

A No, an out-camp of Dachau.

Q Was Wolfratshausen an out-camp of Flossenburg?

A No, there was no camp at all in Wolfratshausen.

Q Was Schwarz in command of your column on the march?

A We took over on the 7th, one kilometer before Waarkirchen.

(Werkmann- Court)

Floss.

QUESTIONS BY LAW MEMBER:

Q I understood you to say that this shooting took place on the 26th, 27th and 28th, is that correct?

A Yes.

Q Did you see any shooting after Schwarz took over?

A No.

QUESTIONS BY PRESIDENT:

Q I believe you previously testified that you thought the shooting took place on the 26th-27th, did you not? The court is referring to this shooting around Wolfratshausen?

A That was about the 26th and 27th.

PRESIDENT: Any further questions by the members of the court? Apparently not. Redirect?

DR. WACKER: Nothing further.

PRESIDENT: Recress?

PROSECUTION: Nothing further.

PRESIDENT: The court understands that the defense is finished with this witness.

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. McKAY: The next accused who desires to take the stand in his own behalf is Bongartz, No. 5.

PRESIDENT TO ACCUSED BONGARTZ: Bongartz, the court understands that you desire to take the stand in your own behalf?

ACCUSED BONGARTZ: Yes.

PRESIDENT: Proceed, Mr. McKay.

(BONGARTZ - DIRECT)

PETER BONGARTZ, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Are you one of the accused in this case?

A Yes.

Q How old are you, Mr. Bongartz?

A 40 years.

Q Are you single or married?

A Single.

Q Bongartz, when were you first sent to a concentration camp?

A The 18th of June 1941.

Q I would like to have you explain briefly the circumstances under which you were put into a concentration camp.

A In 1939 I was mustered and put into replacement reserve No. 2. I was then sent to the organization Todt to work on a construction detail and worked in the battle section in Belgium on the channel coast. The 1st of May 1941 I received a furlough from there. I received eight days furlough and stayed ten days longer. I was arrested by the Gestapo because of sabotage and destroying the war power.

Q Mr. Bongartz, what was your civilian occupation prior to the time that you were mustered in for service with this construction detail in the organization Todt?

Floss.

A I am a mine-master for road construction, railroad construction and canal construction.

Q How long have you followed this occupation?

A 15 years.

Q Where were you first sent to a concentration camp?

A Sachsenhausen.

Q What other camps were you in?

A From Sachsenhausen I was sent in a transport in September to Gross Rosen.

Q How long did you remain in Gross Rosen?

A Until the evacuation on the 6th of February 1945.

Q Where did you go on the evacuation on the 8th of February 1945?

A With 5,000 prisoners I was evacuated by train and arrived in Hersbruck on the 13th of February.

Q How many prisoners arrived with you in Hersbruck from Gross Rosen?

A The train was separated on the way because it caused too much attention, and we arrived in Hersbruck with 2500 prisoners.

Q Upon your arrival at Hersbruck, will you explain to the court briefly what happened to you?

A The night from the 11th to the 12th we arrived in Hersbruck and the first man I saw was Commandant Schwarz. We were unloaded. They counted us superficially. More than

half was missing. Commandant Schwarz asked if there was anyone here to volunteer to carry the other comrades to camp, and I and all others naturally volunteered to carry the dead and sick into camp.

Q What was the first thing that happened to you upon your arrival with regard to quarters?

A After we had carried the sick people into the camp, others and I arrived two or three days later in the camp, were examined, and put into quarantine.

Q How long did you remain in quarantine?

A Three to four days I was in quarantine.

Q What was the first detail you were assigned to work on upon your actual arrival in Hersbruck?

A The 15th of February I was assigned to a construction firm by the name of Schlie in Hersbruck.

Q How long did you remain on this detail?

A Four and one-half days I worked with this detail, and was suddenly called to the camp.

Q What happened then?

A The construction leader of the construction firm Schlie, who is in the special camp here, called me and told me that he had received a phone call and I was to report to the camp immediately because a First Lieutenant Schill was waiting for me there.

Q Will you describe briefly your meeting with Schill and the conversation you had with him at that time?

(Accused Bongartz - Direct)

A When I returned I had to report to the labor commitment leader, Samigk. I reported there and when I went into the room Schill and Samigk were both standing there. Samigk asked me what my profession was. He asked me whether I had done any railroad work and I said, "Yes, for years." He asked me how I had been in the camp, what triangle I wore. He asked me several questions and then he said briefly, "Tomorrow you take over the detail in Nuremberg. The camp commander doesn't have a thing to do with it. I am in charge of that detail."

Q What color triangle did you wear when you were in Hersbruck?

A When I was sent to the camp I had a red triangle. Towards the end the political section in Gross Rosen gave me a black triangle.

Q What color triangle did you have in Hersbruck?

A None at all.

Q Now after you were told that you were to be in charge of detail Nuremberg, what was the first date that you reported to work with that detail?

A I was in the camp the 18th and when I returned and when other details returned from work--those were all details consisting of prisoners from Gross Rosen who had no certain assignment--I was told that I was to make up a detail of up to 800 prisoners. When it was announced through the poll call square that they would need the men for the ~~Nuremberg~~ Nuernberg detail the whole camp tried to get into it. I picked eight capos. I said, "We will finish this argument. Each one of you gets me

100 men. Where they come from I don't care." Then their names were taken down and then they were divided into columns 1 to 8, and I told the capos that the next morning at 4:30 we would fall out. That was the 19th of February.

Q Now you stated that you selected eight other capos. Just what was your capacity on detail Nuremberg, Mr. Bongartz?

A I was obercapo.

Q Can you explain to the court, Mr. Bongartz, why you, a new arrival in the camp of Hersbruck, was selected as Obercapo for this detail ~~Nuremberg~~ Nuernberg?

A Because I had been in the railroad previously for a long time. For years I was in the flying railroad column at one time, and worked in Germany's largest railroad construction firm; it was the firm Klostermann Nhamm, Westphalia.

Q Now, what was the first date that you reported to Nuremberg with your detail of 800 men, to work?

A In the morning of the 19th of February we marched out to work in Nuremberg. The commandant, Schwarz, had given me four doctors, two more medics--and I myself--so that there were 807 prisoners.

Q Now, will you describe to the court just what time in the morning your detail would fall out for work?

A Official reveille was at half past four in the morning. Then the prisoners would get cleaned up and get their things ready, and then they would officially fall out at half past five--half past five or twenty minutes to six. Official departure from the station in Hersbruck was at five minutes after

six. I reported the strength of my detail at the gate. The detail leader--Commando leader Ostertag took charge of the detail and then they were marched to the station of Hersbruck--taking five minutes to walk. There we got into closed cars and from there we traveled to the station of Nuremberg.

Q How did you proceed from the station at Hersbruck to Nuremberg with your detail?

A In a closed construction train which had been put at our disposal by the management of the Reich's railroad in Nuremberg. The doctors and I were in one car, and the rations were put in there for Nuremberg, and the other prisoners were divided up into 50 each and put into the cars. Each one of the cars was heated. And in that way we traveled to the main station at Nuremberg.

Q You stated that you had rations with you on the train. Who was responsible for drawing those rations daily?

A I received a report slip from the labor commitment office and with this slip I, respectively with my first clerk, would go to the kitchen, and the corporal we heard as a witness would hand over the food.

Q How long would it usually take you to go from Hersbruck to the station in Nuremberg where your detail was unloaded?

A That varied. We only worked for four days in the main railroad station. We arrived at the station there--it would take us sometimes two hours. Sometimes when there was an air raid the engine had to stop and it would take us until 10:00 or 11:00 o'clock in the morning after departing at 6:05

to get to our place of work. Many of the low flying aircraft chased engines who had still steam in them and fired at them and ruined them.

You stated that your detail only worked about four days in the main railroad station. Will you explain that to the court?

Yes, there had been a large air raid on the main railroad station. All of the passenger station had been destroyed. We received orders from First Lieutenant Schill to put away the rubble at the main railroad station superficially. Between the platforms where the passengers were there was rubble, there was torn rails, and it was our duty to take away these things so passenger trains could again run.

Do I understand then that during these first four days the entire detail which left Mersbruck worked in the main railroad station?

Yes.

Now after these first four days, where did the detail that came from Mersbruck work in the railroad station in Nuremberg?

When we had finished superficially in the main railroad station I received orders to go to the freight station in Nuremberg.

How far was it from the freight station to the main railroad station?

Seven kilometers; but we didn't go by way of the main railroad station. We proceeded from Mersbruck directly

to the freight station--that is, the freight trains run there.

After these first four days, I would like to have you explain to the court just how your detail was separated to work in the freight yard and the railroad yard in Nuremberg?

A The 23rd of February I arrived at the freight station with my prisoners. There I met the construction leader Oelze, who is here as a witness. He gave me orders as to how prisoners had to be distributed.

MR. McKAY: Let the record show that the accused Lisbusch, Mussfeldt and Wurst have returned to the dock.

QUESTIONS BY MR. McKAY:

Q On your reporting to Mr. Oelze, explain to the court just what directions you were given with regard to work to be done by the detail which had come from Hersbruck?

A The column had been divided into 100 men each. He gave us a plan for work--this construction leader Oelze did. He designated on this plan wherever the colums should work, that is to say, wherever a lot of cleaning up had to be done after a large air raid had taken place. The column was divided up this way over the whole freight station.

Q Will you explain to the court just what work your various details performed in the railroad station, Nuremberg?

A Construction of rails, that is to say, to repair the rails which had been bombed, and to fill up bomb craters, electrical work and mason work. I had masons working in the repair shop. They were there for four days and then they were sent to the main railroad station where they worked from then on.

(Accused Bongartz - Direct)

After these first four days, will you explain to the court what details you sent back to the main railroad station to work?

A First Lieutenant Schill checked all the work not only of we prisoners but all 5,000 prisoners of war. He came to me one day and he said, "Obercapo, tomorrow you will send a detail of skilled workers to the main railroad station in Nuremberg."

Q How many men made up this detail of skilled workers?

A Fifty prisoners. The capo was Wonde.

Q Just what kind of work did Wonde's detail do in the main railroad station?

A The telephone connections had been destroyed because of the air raid. The prisoners were detailed to construct a superficial telephone connection, and these people did that--the masons and the carpenters. They worked on the telephone cables which reached from station to station.

Q Was there any other detail of prisoners who worked in the main railroad station during the time that Mr. Wonde's detail of skilled workers was working there?

A Yes, 100 men, column 4; the capo's name was George. They worked in the coal yard.

PRESIDENT: The court will recess until 1:30.

(Whereupon the court at 1200 hours recessed until 1330 hours.)

CAMP DACHAU, GERMANY

15 November 1946

AFTERNOON SESSION

(Thereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: Let the record show, may it please the court, that all of the personnel of the court are present, that Lt. Col. Sorley has been restored to this court by virtue of paragraph 8, Special Order No. 331 dated , November 1946, Headquarters, US Forces, European Theater, and this court was originally appointed by paragraph 36, Special Order No. 123 dated 17 May 1946, Headquarters, Third U.S. Army, all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all of the personnel of the defense are present, all of the accused are present with the exception of Oswalt, Lipinski, and Losen who are ill and whose interests are being taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Lt. Col. Sorley is directed to read the record of the Flossenburg case between July 24 and the present date and when this matter has been accomplished Col. Sorley will so indicate to the President of the court. Continuation of direct examination, Mr. McKay.

PETER BONGARTZ, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. McKAY:

Q Mr. Bongartz, prior to the noon recess we were discussing the details or columns that worked in the main railroad station from your detail which you brought from Hersbruck. Do you remember that?

A Yes.

Q Mr. Bongartz, will you explain to the court how often this detail of 100 men under the capo Georg worked in the main railroad station?

A As of the 26th of February, 1945, they were there for four days, those 100 men. They did not work for seven days then and after that stayed in the main station until the end.

Q In your testimony this morning, Mr. Bongartz, you stated that you reported to a man by the name of Oelze who was in charge of the railroad station when you brought your workers to work. Do you recall that?

A Yes, he was the man in charge of construction district No. 21 construction manager Oelze.

Q Do you recall his testifying in this case?

A Yes.

Can you explain to the court the reason that Mr. Oelze did not have all eight hundred prisoners which you brought from Hersbruck in his records over the period of time that you worked at the Nuernberg railroad station?

A The district of the main station and freight station in Nuernberg had been divided into three sections, section 1, construction section 1 was under the construction chief Vetters. I asked for him as a witness but he wasn't brought here. The second section had another construction chief but I don't know his name. Construction chief Oelze was in charge of the third section.

Q What relation did you have with these other two construction details or sections during that period of time?

A I checked them daily.

Q How do you account for the fact that on certain days which your detail worked in Hersbruck that not all 800 prisoners were reported to Mr. Oelze?

A Because construction chief Oelze was not concerned with the other sections. He only registered prisoners who worked in his section.

Q Will you explain to the court how many columns you would have working in other sections other than in the section under the direction of Mr. Oelze during the period of time that your detail worked in Nuernberg?

A That varied, sometimes three, sometimes four columns, 100 each.

Q You spoke of certain prisoners on your detail being electrical workers. Will you explain just how they were used in this detail Nuernberg?

A Column 5 had been divided into two times fifty skilled workers. The first fifty were under the capo lande in the main station of Nuernberg. The other fifty were under the direction of an electrician capo and worked at the electrical wiring outside of the freight station.

Q During the time that you had men working in the freight railroad station just what kind of work were they doing?

A The same as the main station, superficial track lane, rail building and filling up of bomb craters.

Q Will you explain to the court, Mr. Bongartz, what your actual duties were as obercapo with regard to these columns that were working in Nuernberg which made up the detail that left Hersbruck each morning?

A It was my duty as an obercapo to see to it that order was maintained whenever the prisoners marched in or out, to instruct the capos about the building of the railroad tracks, food, so that the rest between working hours were kept and to make reports for doctors in case of injuries, accidents, throughout air attacks and reports about looting and all the other things connected with it.

Q During the time that you were on detail ~~Nuerenberg~~ Nuernberg from whom did you receive your orders with regard to the work to be performed?

A 1st Lt. Schill, the special agent of the Reichafuehrer of the SS and the special executive officer ~~Nuerenberg~~ Nuernberg.

Q Will you explain to the court what if any orders were given to you with regard to looting and plundering of railroad cars by personnel of your detail during the time that you were working in ~~Nuerenberg~~ Nuernberg?

A Every morning we received a sheet, a printed sheet, which also the Russian prisoners of war received with instructions on it. The heading of it was "Special Executive Officer for War Management, 1st Lt. Schill" and the order read, "Anyone who gets caught looting will be shot to death. Anyone who leaves his place of work during an air raid will be shot to death", and other details.

Q Will you explain to the court just what if any responsibility you as obercapo had for the enforcement of this order?

A He threatened me by punishment of death that if he should ever find out about me either looting or that I would cover up for other prisoners or work together with them I would be the first one to be hanged.

Q During the time that you performed your duties as obercapo on Detail ~~Nuerenberg~~ Nuernberg what if any guard protection was afforded you?

A SS men.

Q Will you explain to the court just how these guards were set up with regard to each column that was working?

A That was done in the camp already. We marched out by columns and whenever a column marched out the specific commando leader would come out, take charge of the column, and have ten guards for each column — not the commando leader as you call it — he was a guard leader.

Q You stated that of the personnel that made up the detail that left Hersbruck there were several doctors and other attendants. Will you explain to the court what they did on the detail ~~Nuerenberg~~ Nuernberg?

A The doctors were stationed in my shack where I stayed. They took care of the food for the column such as bread, butter and sausage. They made 2,000 liters of coffee each day. That was all the work they had to do.

Q And where was your shack located?

A Part of the time in the freight station of ~~Nuerenberg~~ Nuernberg. In former times it had been the office of construction chief Oelze.

Q Mr. Bongartz, will you explain to the court just what type of construction work was being done on detail ~~Nuerenberg~~ Nuernberg during the period of the four weeks prior to the final evacuation of Hersbruck?

A I was not in the freight station any more at all but I was working at the station Maerzfeld where Hitler used to hold his Reichs Party days. Two very important traffic bridges were there. We worked on a detour around the one bridge over to the other bridge in case of any air raid that these bridges should be destroyed that traffic could go on.

Q How many columns of the detail which came from Hersbruck was working on this particular work during that period of time?

A All except the electricians and the 150 men who worked in the

main station of ~~Nuernberg~~ Nuernberg and there was one other column working behind Haerzfeld.

Q Mr. Bongartz, I hand you a diagram which has been marked Defense Exhibit No. 38 for identification and ask you if you know what this is?

A That is the sketch of the detour that I built in Haerzfeld.

Q How far was it from the place where this work was being done to the main freight railroad station in kilometers?

A Three and a-half kilometers from this place of construction to the freight station.

Q During the time that your detail, or part of your detail, was working on this construction work, will you please explain to the court how the guard set-up was made up there?

A Usually 100 men would work with 10 guards surrounding them. They made an exception in this case, to make my job easier for me they surrounded the whole place of construction with guards.

Q Mr. Bongartz, will you explain to the court how it was possible for you as a prisoner to go from column to column to perform your duties as oberkapo?

A There was an agreement reached between the commando leader and the man in charge, the chief of construction, that the doctors would have escort guard as well as I.

Q And who was your escort guard?

A Hurster, who was here as a witness.

Q Again referring to the diagram which has been marked for identification as Defense Exhibit No. 38, I ask you who prepared that diagram?

A I, myself.

Q And from where did you get the information which you used to prepare this diagram?

A I drew that myself because I am acquainted with construction work.

MR. McKAY: At this time the defense offers in evidence the diagram which has been marked for identification as Defense Exhibit 38 prepared by this witness.

PRESIDENT: Any objection on the part of the prosecution?

MR. BERKOWITZ: No objection, sir.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive in evidence Defense Exhibit No. 38 and give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit No. 38 for identification was received in evidence as Defense Exhibit No. 38 and is attached hereto and made a part of the record.)

QUESTIONS BY MR. McKAY:

Q Mr. Bongartz, how long did the detail of which you were in charge continue to work in ~~Nuremberg~~ Nuernberg?

A Until the 7th of April.

Q Of what year?

A 1945.

Q Mr. Bongartz, I'd like to have you explain to the court just what the situation was with regard to your detail working on Sundays during the period of time that you were in ~~Nuremberg~~ Nuernberg?

A The laws of war prescribed that since the soldiers were doing the fighting at the front and were doing their work at the front the prisoners would also have to work in war territory. I went to the supreme chief of the Reichs railroad management in ~~Nuremberg~~ Nuernberg, I went to him and I complained that the people were hanging around the railroad, that they were full of lice, that the guards were not able any more to stand up and that way I wanted to get them acquainted with the fact that

we wanted to get off on Sundays. I succeeded in getting two Sundays off for the people working at the freight station. I did not succeed as far as people at the main station were concerned because this chief told me that the work at the main station was absolutely necessary and of importance for the war, and during all that time the main station detail in Nuernberg was the only detail that never got off.

Q During the time that the majority of your detail was off on a Sunday where were you working?

A Main station Nuernberg. I had to go along.

Q You stated that one of your duties as Oberenpo was to maintain order among your prisoners. I would like to have you explain to the court just what methods and means you used to accomplish that.

A Regulations read that it was my duty to report any kind of looting or work sabotage and I was threatened with a death sentence in case of violating this order. I never made a report. I tried to get along with these people and they were all kinds of people any other way.

Q Did you ever have any occasion on which you found it necessary to take disciplinary action against prisoners?

A At the freight station I had to fight from morning until night with the so-called railroad protective police and the SS protective police. They all put their noses there where they didn't belong. They should have gone to the front instead. They brought prisoners to me every day, five, ten, sometimes twenty-five a day, who had been caught outside of the chain of guards who had allegedly looted there or picked up things that were on the ground. They were usually taken to my shack and that was usually at noon time when I made my rounds. Shortly before noon

I would go from the freight station to the main station which would take up approximately two hours, two to two and a-half hours. When I would then return to my shack I would see those unlucky birds sit there under guard and then right away I knew what was going on. With the railroad protective police I usually got them off because I would tell them that these prisoners were probably hungry, that there actually were no human beings around there because everyone of us prisoners just carried numbers and that they as they were in this state were not fit for society and that they should not make any report. Besides that I told them that whenever I would relay a report that they would have to sign this report with their names and would have to count on the fact that the prisoners would probably be executed. I told the railroad policemen that I would whip their ass at night. I gave them a few good beatings in the mouth and these prisoners knew what the score was and went out the door in a hurry.

Q You stated that you administered beatings. I want you to describe for the court just how you administered those beatings.

A A few slaps on the ear.

Q What do you mean by a slap on the ear?

A I will admit that from my work in former times I have a pretty heavy handwriting and I'd just reach over there like this (Indicating). But I never beat anyone with any kind of an instrument as has been stated here. I was man enough so I wouldn't have to use any kind of an instrument. My hand was enough. The doctors were present. They wouldn't have allowed it because they had been sent there by orders of the commandant himself.

Q Can you give the court any idea of the number of beatings that you administered in this fashion?

A When you count all the lootings that went on per week, and I don't want to put it on here beautifully, you can say that they had 20, 25, sometimes 30 cases a week. They were all nationalities, Germans, mainly Italians, Russians, Poles, Czechs, Jugoslavs, and Ukranians. The worst ones I ever had in my detail were the Russians.

During the time that your detail was working in ~~Nuremberg~~ Nuernberg will you explain to the court what if anything ever occurred with regard to air raids?

A I had special orders that the work would be carried on during an air raid. I violated this order because I told each one of the capos that I would hold them responsible that during air raids there would be no work performed and there were quite a few air raids, during the last period air raids all day long. Whenever an air raid was announced you couldn't see anything of the guards any more. The capo would stand there with his prisoners like a bunch of cattle. These capos were not dumb themselves, having been in the camp for such a long time. Whenever there was an air raid they would take off and be behind tanks or else crawl into railroad cars and whenever the all-clear signal came at that time they didn't have any sirens any more and they would fire shots from anti-aircraft guns, they would resume their work.

Q Will you explain to the court how many casualties you had from air raids during the time that your detail worked in ~~Nuremberg~~ Nuernberg?

A During the time that I was in ~~Nuremberg~~ Nuernberg I went through three severe bomb attacks under the rain of bombs and I have witnesses for that, witnesses who have not been brought here yet. I took a steel helmet and went to the various prisoners and took them to safe places. I am especially proud that in my detail there was no case of death as far as casualties were concerned. There was a detail of American prisoners of war working there, they had thirty-five dead, the Russians lost over

350 dead, and I didn't have a single one during all the time that I was there.

Q You referred to Russian prisoners of war and American prisoners of war, did they come from Hersbruck?

A No they came from Landmasser, it's contained on that map, they had over 55,000 prisoners of war there. The distance of this prisoners of war camp from the freight station was some 25 minutes. I have been in there several times myself to pick up food and water. Because of the war propaganda and the bluff going on there the SS took them out and made them work to show the people that the war was going all right. They had more than 10,000 prisoners of war working at the freight station. Work was not performed at all as I could see with my experience in the field of construction. It was just a bluff to show that everything was all right. They were just standing around with shovels scraping in the sand.

Q In other words you mean to tell this court that there were other details working in the station other than your detail from Hersbruck all during this period of time?

A There were other prisoners there also, for instance the infamous construction brigade 11 and 1,000 prisoners from the camp of Sachsenhausen.

Q Mr. Bongartz, will you explain to the court the procedure that was followed in making preparations for the return to Hersbruck at night of the detail. ~~Nuernberg~~ Nuernberg during the time that you were in charge there as obercapo?

A Work hours had been designated, five o'clock sharp the work was finished for which I always waited because I was happy whenever I had time off. The capos were instructed, they left their places of work about five minutes to five, they brought their tools along, they went past my shack, put the tools down, the capo would report the strength

of the column to me. From there we marched in closed columns. We marched to the train in which we always traveled. There we had a general roll call and when the engine arrived we got into the train and went off to Hersbruck.

Q What time did your detail usually get back to Hersbruck in the evening?

A The time of departure was usually at five-thirty but during the last time we had so many air raids there was a circus going on all day long that we sometimes arrived there at night at nine or ten o'clock. As a matter of fact I have experienced it once that the engine just went away from us and left us sitting there in the open field on the tracks and that we arrived in the camp at about twelve midnight. Three times during all this period I returned to the camp at twelve o'clock midnight.

PRESIDENT: Mr. McKay, the court feels that these minute details are not with the issue.

Q Mr. Bongartz, do you recall the witnesses who appeared to the prosecution against you?

A Too well.

Q Do you recall a man by the name of Mendel Rosenbaum?

A Yes, I personally transferred him from the mining detail to my ~~Nuernberg~~ Nuernberg detail because he begged me for it. He was a Jew and Rosenbaum was an orderly in the column 1 under capo Zink.

Q Do you recall the testimony that he gave with regard to your beating up a Russian so badly that he had to be taken to the hospital and died a few days later?

A Yes, I heard that testimony.

Q What do you have to say about that?

A That's ridiculous because it's not possible technically. I was not in the freight station during the last three weeks. Secondly if a prisoner had been injured severely they would have to take him from my shack to the train, the doctors would have heard about it mainly. When the Americans arrived I personally said goodbye to the doctors here in Dachau and a report would have been made. Besides that it would have been generally known in the camp and I don't even know where that hospital he was talking about was, whether he had been taken there by train or not I don't know.

Q What was the status of these doctors that used to work on your detail Nuernberg, were they civilians, soldiers, or prisoners?

A Two Polish Jews, prisoners, doctors, a Polish lieutenant colonel of the former Polish army, a doctor, and a Czech, chief doctor.

Q Can you tell the court where column 1 worked during the last three and a-half or four weeks that the detail worked in Nuerenberg?

A The columns were always mixed and capos received orders daily as to the place of work. During the last period all columns were used at this detour that was being built. This makes lies out of the testimony given by the witness because at this place of work there were no cars whatsoever, there were guards all around the territory. And then I should like to know where I should have caught this man, this Russian having looted. Not that I want to deny that they didn't steal there, just at this place of construction they stole and always when I was not around they would do the stealing because there were prisoners who always had friends among the guards. There were also Poles and Ukranians among those guards. These prisoners would go up to one of the guards and say, "I have to pick up some tools at the freight station", and this guard would call another guard who had been used as replacement, who was

in reserve, call him over and the prisoner could go over to the freight station and they would steal there very industriously. But at this place of construction there was not a single car.

Q Can you explain why there were no cars at this place of construction?

A How should they get there? There were no tracks at all.

Q Just what was the actual nature of that work then?

A According to the war regulations and as they thought the war would last another year they said that this should be protected and sent us there to build a sand ~~bag~~ bank around these tracks. I stayed at this place of work except for the times that I checked the main station in ~~Nuernberg~~ Nuernberg once or twice a day.

Q Do you recall the witness Abraham Weber who testified for the prosecution against you?

A I never saw him before. I only know him since he has been a witness here. That is the biggest lie I ever did hear in any trial. How can I kill a prisoner or beat to death a prisoner in a lavatory in the camp on Sunday when I was never in the camp on Sunday? The only day I was ever in camp was on Easter Sunday. I was very happy that I had some time off and I was in bed when suddenly an air raid came. Outside of the camp there was a fully loaded pack train, one of the low-flying aircraft dropped an aerial mine into it so that two cars were thrown through the air. I volunteered to help clean up and rescue the dead people and wounded people and later on dug the mass grave outside of the camp. During the burial of these dead the commandant Schwarz was present also.

Q Bongartz, several times you have referred to commandant Schwarz. Will you point him out to the court?

A (Indicating) No. 43.

Q Mr. Bongartz, again going to the testimony of the man Rosenbaum, do you recall his testimony with regard to your kicking out fires and preventing the people from cooking their food on the evacuation march?

A That is not correct because we marched out of camp on the evacuation march by blocks. I marched with blocks 2 and 3 and Rosenbaum was with block 1. He couldn't have seen me at all during the march. This blockaldest of that block is here in the special camp, specifically in the free camp. His name is Franz Ploschak.

MR. McKAY: Dr. Wacker has some questions on behalf of the accused Schwarz.

PRESIDENT: Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Mr. Bongartz, several times you talked about a certain Schill. What was his rank?

A Schill, when I got acquainted with him, was a 1st lieutenant, was later on promoted to captain. He was the special agent of the Reichsfuehrer of the SS and the commander of the Reichs War Executive Office, ~~Nuremberg~~ Nuernberg.

Q Please describe again the conditions in Hersbruck referring to his giving orders there instead of Schwarz.

A After the 1st lieutenant had left I talked to Sergeant Samigk. He had a friendly attitude towards prisoners and I asked him what kind of a bad man is the other man. He said to me, "Keep your mouth shut. He is a higher up. He has Hitler's personal authority to give orders in all camps".

Q Did Samigk describe the conditions to you as Schill being under Schwarz' orders or as if Schwarz were under Schill's orders?

A The way this 1st lieutenant, respectively captain, dragged himself around the station in Nuernberg and the places of work with generals I don't think that Schwarz was in any position to give orders to this gentleman. He told me specifically, "As soon as the details leave the camp they're not under the orders of Schwarz but under my orders, remember that."

Q You mentioned that you several times returned from Nuernberg to Hersbruck at twelve o'clock midnight. Did you have to go back to work the next morning at five-thirty in spite of that fact?

MR. BERKO: I'm objected to as leading the witness.

DR. MACKEN: I'll rephrase the question.

PRESIDENT: Go ahead.

Q When did you get up the next morning?

When we got back to camp very late we succeeded in sleeping an hour longer, maybe because of the commandant Schwarz or the labor commitment office. Instead of getting up at the official reveille hours I was told that the detail Nuernberg got permission to sleep an hour longer but that I was responsible that the detail Nuernberg would be in formation at ten minutes to six. I also went to the old man in Nuernberg and told him that this work was very difficult anyway and that he should put a little steam behind his railroad men to get us there in time and not get us back so late. Outside of that I told him that they always said, "The wheels are running for the victory", and I said that I didn't see any wheels running for any kind of a victory and I made jokes of that kind and he said, "Shut your mouth. I'm the one to give orders here." The men who ran the trains had orders that whenever they saw any sign of a low-flying aircraft approaching they had to undo the

engine from the rest of the train and take off and leave us sit there. But all of us concentration camp prisoners, we had good experience in that. We had enough room in the cars, the cars were heated, so we just went to sleep and we snored until reaching Hersbruck.

Q Why did you not go to the commandant Schwarz about these work hours? Why did you go to the management in Nuernberg?

A Commandant Schwarz didn't have anything to do with the work hours. I only know that the work hours were designated by the war labor commitment office in Nuernberg. That is all I know about it.

Q Mr. Bongartz, you stated that you administered several times slaps on the ear. Did Mr. Schwarz find out about this?

A No he never found out about it unless reports were made from behind my back about any lootings that took place down there and he would then reprimand me for it and he said, "What's going on down there, Bongartz?" While I would say, "It's only half as bad". And outside of that Schwarz had his so-called confidential men in this detail down there. He never asked me about any beatings or any mistreatments.

Q In which marching column were you during the evacuation march?

A I was in marching column 2. The leader of this column was 1st Sgt. Marr.

Q Did this column reach Dachau?

A Yes, all of us marched into Dachau. The commandant Schwarz waited until all columns had assembled before reaching Dachau and all of us marched into Dachau and there we were counted.

Q Were any prisoners shot to death on the march?

A No.

Q What happened to those who had sick feet and others who were sick?

A On Saturday my detail marched in and on Sunday I was told that the camp would be evacuated and that the evacuation would take place Monday, that we would not go out to work Monday any more. I asked then whether it would be the same kind of a circus that was going on during the evacuation from Gross Rosen because during those days on this evacuation from Gross Rosen were the worst days of all my life. I was then told that we would march in closed blocks, that we would also take days off and take rest, that we would get our food from Mersbruck, and that we would be fed properly. I then requested permission from the commandant Schwarz to be allowed to take along a former representative of the German Reichstag by the name of Wilhelm Michalski, he is well known in Germany. I requested permission to take him along and then I found a hand cart and I took him along in this hand cart. I pulled him along in this hand cart all the way from Mersbruck into Dachau. I requested this man to appear here on the stand as a witness. He is now president of police in one of the German cities in the Russian Zone. I could not get him as a witness here.

Q Mr. Bongartz, I asked you what in general happened to those who were sick and not able to march.

A I myself marched in column 2, column 3 was behind us and behind column 3 there were horse-drawn carts on which prisoners were loaded who were not capable of going on and who were sick. I myself was sick on one of these columns. There were two doctors designated to march with each column who then in turn with each prisoner who was not able to go on with the march and they would then determine which prisoners should be loaded onto these wagons.

Q Do you recall the testimony given by the witness previously mentioned that Schwarz had given orders that all prisoners who were incapable of going on should be shot to death and that this order had

also been carried out?

A No, I can prove that and I could do so if I would be under oath also. Behind Pfaffenhofen we went down into a valley and along came an evacuation column from ~~Galicia~~ Silesia. Schwarz was standing there with the doctor and at that time he told the commando leaders again, "I emphasize to you again that no shooting will take place." One might think this is incredible but I have seen lots of SS and I must say that I never had seen any commander who had carried out an evacuation like Schwarz did, although I hate these SS people and don't want to cover up for him.

Q You talked about the evacuation from Gross Rosen. Did you arrive with that transport?

A I'll never in all my life forget that transport. 35,000 prisoners were thrown out of Gross Rosen in one day.

Q Mr. Bongartz, I don't want to know about the whole transport from Gross Rosen, I want to know how these prisoners from Gross Rosen got into Hersbruck.

A We were loaded onto the open freight cars, the doors were shut, we didn't get any food for four days and nights, we didn't get anything to drink, we had no ~~pocket~~ bucket to relieve ourselves and arrived in Hersbruck between eleven to twelve midnight.

Q What was the physical condition of prisoners who arrived from Gross Rosen in Hersbruck?

A I can't give any technical terminology about that but I might say it this way. When the doors were open it was terrible, people swayed out of these cars and those who were still able to walk just literally ran into camp. They didn't ask the guards' permission. They were happy to see the camp, the light and the smoke coming out of the chimneys. And that is when I first saw commandant Schwarz. The sick

and the dead remained behind in the wagons. I was certainly a hardened man because of my long time in the camp but it was a terrible sight when you saw these people who arrived in Gross Rosen from camps like Auschwitz and Lublin who had been chased for six weeks on foot through snow and storm and then had been in Gross Rosen for two days and then evacuated again with us and sent to Hersbruck.

Q Do you know if any number of these prisoners who arrived from Gross Rosen died after they had arrived in Hersbruck?

A I myself unloaded these sick and dead people. I unloaded 43 dead people and more than 500 people who were severely ill. We took them into the camp with the help of other prisoners on hand carts. We were very curious to find out about these things so we would whenever we handed in our reports talk to the people in the clerk's office and I would talk to the campeldest Steuben and these people in the clerk's office would say "My God, we have so many dead people again — 20, 30, 70, 100, all from your transport. They're all Hungarian Jews." Those were the people who had come over from Auschwitz.

Q How did Schwarz act whenever such a transport would arrive?

A I have seen throughout my camp time a lot of things but this is the first time that I ever saw a commander stand at the railroad station when it was raining cats and dogs, people were running out of the cars and he said, "Doesn't any one of you want to help any sick comrade?" The railroad requested that these cars would be unloaded within one hour because it was a whole train and they needed it and I helped unload these cars.

PRESIDENT: The court will take a half-hour recess.

(Whereupon the court recessed at 1500 hours.)

Ta 605-11/15
lef-gms
Flose-1

Camp Dachau, Germany
15 November 1946

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the court are present, all the members of the prosecution are present with the exception of Mr. Denson and Mr. Pinter who are absent on business of the prosecution, all the members of the defense are present, all the accused are present with the exception of Oswalt, Lipinski and Losch, who are sick and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of direct examination.

DR. WACKER: No further questions.

PETER BONGARTZ, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY:

Q I have one more question. Where and when were you apprehended by the Americans?

A I stayed here in the camp.

Q You have been in custody ever since?

A Commander Rosenblum, who liberated this camp, promised that he would leave us go. He cleared us from the point of accusation and took us into protective custody because there was a helter-skelter situation here. Later the CIC and Mr. Berkowitz took our case in their hands.

MR. MC KAY: No further questions.

PRESIDENT: Cross examination, Mr. Berkowitz.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q What were your duties on this transport from Herzbruck to Dachau?

A None.

Q No duties whatsoever?

A No.

Q Did you have anything to do with the cart?

A I had a handcart in which my comrade Michalski was.

Q What else did you have in the cart?

A A few clothes, a few buckets, artificial coffee, and other stuff.

Q Did you bring along some special food for yourself?

A No.

Q How were the prisoners fed on this march?

A During the first part of the march, Commander Schwarz arrived with the truck and distributed the food to the prisoners during the rest period in the evening. We got cold food, bread and butter.

Q How was it during the latter period of the march?

A We got the food until we left Pfaffenhofen. They requested food from the farmers around there and they were willing to give it, and in the evenings when we made quarters, usually on the farms, we would cook the food--potatoes, tea, and milk, or whatever they got.

Q How was it after you left there?

A That is just what I just said.

Q The food continued to be good all the way down to Dachau, didn't it?

A What do you call "good"? According to the circumstances, what I would say is that we didn't starve. I sacrificed my golden watch during the evacuation march, a silver watch, a diamond ring, and a thousand marks. I asked for the witnesses who would know about it, but they were not apprehended.

Q You had all this jewelry with you all the time when you were in Hersbruck?

A Yes. We received in Gross Rosen our personal property against our signature. So that no error will come up here, this golden watch I got from my

comrade, Michalski because I saved his life, and since I am accused as being a war criminal, I would like to have it back.

Q It was necessary for you to trade your watch and jewelry and diamonds in order to get something to eat on the way, is that correct?

A Most of the requisitioning of food was done by the doctors and the farmers didn't want to take any money; they didn't have any use for money. They wanted things of material value, so the doctors, mainly, sacrificed things to get food.

Q What did the prisoners eat who did not have any jewelry to sacrifice?

A The food we got was cooked and distributed for all.

Q Now, is it not a matter of fact that the prisoners who could not buy food had to eat grass?

A I never saw that. I should like to have these witnesses come here who can verify these statements, those farmers who gave us food. One farmer gave us 2500 lbs. of potatoes. He lives about 25 kilometers from here where we took a rest for the last time. He gave each prisoner 6 lbs. potatoes, tea, soup. The farmer's name is Willie Brunner. He lives in Halsberg Am.

MR. BERKOWITZ: Mr. Bongartz, just answer my questions and do not divert too much.

Q Did you see any corpses on this march?

A I saw two dead bodies in Schmidtmuehlen.

Q Were there not more than that?

A In the column with which I was we had two dead people. They were in Schmidtmuehlen. I saw those.

Q Did you see any dead bodies from the other columns?

A No.

Q Did you not in the course of a previous interrogation state that you had seen bodies that had been shot?

A I didn't see that in our marching column. On the road between Kelheim and Saal we saw four bodies and these four bodies bore marks of having been shot.

Yes, I assumed that they were shot to death by the field gendarmerie. I was asked by the former prosecutor about this. He asked me who had shot them.

Q Were they not from the column that preceded yours?

A No.

Q Did you not state that these bodies were from Column 1 that preceded yours?

A No.

Q Are you sure about that?

A Yes, it was prosecution attorney Newel who questioned me. I don't know what his name is, if it is Newel or not.

Q How many men from your block were shot?

A As I said, none.

Q Did any of the prisoners from your marching block fall by the wayside?

A I didn't see that. The question is if any prisoners were weak, that is correct. I myself picked up weak prisoners and put them on the vehicle.

Q Is this the same vehicle that you had your friend in?

A No, I had my friend on the handcart which I had stolen in the station, Nuernberg.

Q How many weak prisoners did you pick up?

A I estimate the number of prisoners whom I picked up with a Polish doctor, whom I had requested to be my witness here but who did not get here, to be 8.

Q What is this doctor's name?

A At one time this doctor was taken into the bunker by the American authorities and I asked him at that time why he had been taken into the bunker, and he said that he had been accused of taking dental instruments to the outside. I asked my defense counsel to find out this man's name as it should be known since he had been admitted to the bunker. I pointed this out to Mr. McKay four times. I questioned the man in charge of the bunker, Dr. Dortheimer, to tell me the name of this man, but he refused.

Q You do not know who the man was?

A I don't know the name. You can find out about it in the bunker.

Q How many weak prisoners did you see on this march who were unable to continue?

A I can only talk about the marching column with which I was and at Saal and Adamo on the Danube. They called out publicly for those who were too weak to go on and I estimated the number of those reported to be sick as about 80. In Schmidtmuehlen 25 sick people from our column remained behind. It could be determined because we always had roll call. In another village--I believe the name of this village is Hainsacker, or something like that--five prisoners remained behind with a sick guard. I met him again in the camp. I asked him whatever became of those five prisoners, and he told me that they had been handed over to the burgomeister at that time.

Q Where was that village?

A It is between Schmidtmuehlen and Hohenschanbach.

Q Was that before you reached Saal?

A I believe so.

Q What happened to the prisoners who were too weak to continue after you reached Saal?

A A bulldozer with an empty trailer went along to Allershausen. I am not from Bavaria here, but I think the name is Allershausen. I only remember the names of the places where we took a rest. I don't know the name of every village.

Q All along the march, there was nobody who was tired, everybody was either left behind or carried in some vehicle, is that correct?

A No one says that. Of course, people were tired, but all these people were put on these vehicles. That is just the peculiar thing about these evacuations. They had two doctors with each marching block and these doctors would designate those prisoners who should be carried by vehicle. The doctors were the

(Bongarts-Cross)

6752

ones actually responsible for the march because whenever they told the commandant, "These prisoners are not able to go on anymore," then they would take a day's rest respectively. The Captain, a doctor, his name is Ehrlich--

MR. BERKOWITZ: --Well, now, Mr. Bonwartz, answer my questions and don't divert too much. If you have any explanations to make, you can make them later.

ACCUSED BONWARTZ: Those are no explanations. I am not a professional man, I just talk the way my mouth is, and I can't answer all these questions with just yes or no.

PRESIDENT: Just make your answers as short as possible. You will be given an opportunity later on to make any statements or explanations you see fit.

QUESTIONS BY MR. BERKOWITZ:

Q When did you reach Pfaffenhofen?

A I can't remember the exact date.

Q Was that the first stop you made?

A We did not take a rest in Pfaffenhofen, but I remember Pfaffenhofen very well. I remember having marched through it. It was a very nice little city. There was a brewery, and right outside of town there was a river and to the right-hand side, there was a prisoner of war camp with American prisoners of war and they threw masses of cigarettes at us, and chocolate and soup. I recalled that now, having marched through there.

MR. BERKOWITZ: May I again ask the court to remind this witness to answer my questions and not to divert?

PRESIDENT: Just make your answers as short as possible.

Q What happened between Hersbruck and Pfaffenhofen with regard to the prisoners?

A How should I understand that question?

Q Were any prisoners shot between Hersbruck and Pfaffenhofen?

A As I stated three times, there was no one shot in any marching block, and I didn't see anything.

Q In which block were they shot?

A I don't know that because I didn't see any block, with the exception of mine.

Q What was the condition of the prisoners when they arrived in Dachau?

A When we marched into Dachau, the prisoners were counted and when we were standing on the roll call square, I might say the prisoners were happy to be here because we all knew it was to be the end.

Q What was the physical condition of the prisoners who arrived at Dachau?

A How can I answer that question? There were weak people there, the way people will look as they get out of camps.

Q Now, what blocks from Hersbruck were in your column?

A Blocks 2 and 3.

Q Who was the block clerk of block 2?

A I don't know him.

Q You lived in that block?

MR. MC KAY: I object to that as going beyond the scope of direct examination.

MR. BERKOWITZ: May it please the court, we want to know who the personnel of that marching column were, and one of the means of determining this is to know who the clerk was and who the people were.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. BERKOWITZ:

Q Do you know whether the block clerk of Block 2 was in the marching column?

A I assume so. Many of the prominent people stayed back and joined later on Column 5. I don't know whether he was with them or not. I only know the block clerk was a Czech.

Q Do you know his name?

A No.

Q Was he Dr. Paulu?

A I don't know.

Q What did these two men in your block die from?

A I don't know. I am not a doctor. They died in Schmidmühlen in the presence of the doctor.

Q Do you have any idea what they died from?

A I am not a doctor, and I don't know that. I only know that they died there in Schmidmühlen. They had a superficial hospital there, that is to say, they installed a room in which the doctors would sleep with the people who were severely ill. I myself buried those with other prisoners, those two dead in Schmidmühlen.

Q Did you notice any marks of shooting on those two corpses?

A No.

Q Is it not a matter of fact that while you were working on this detail at Nuernberg, the detail was relieved of working for two Sundays? I am now referring to the month of March 1945.

A Because of complaints, I got the chief to relieve the detail, freight station, for two Sundays, but I was not successful with the detail, main station.

Q They remained behind to wash and delouse, is that correct?

A I gave that as a reason so that the prisoners would get time off. I told them that they had to be deloused and wash their clothes. That is the reason why I was so surprised when I returned and these prisoners came to me in the evening and complained to me that they had to work.

(Bongarts-Cross)

I went to the camp leader, Bittmers, and asked him why they had to work, and he told me that that shit didn't concern me, and I found out later on that these people had to go outside the camp and dig some ridiculous ditches to keep the American tanks from crossing.

Q That was on Sunday evening when they complained, was it not?

A After I had returned from the station in Nuernberg.

Q During that Sunday you were in Kersbrunk supervising the washing and delousing, is that correct?

A No, I never stayed in Kersbrunk on Sundays, and I never saw a lavatory there, as a matter of fact, I don't even know where it is.

Q Did your block have a lavatory?

A I washed in the block.

Q The prisoners who were in your detail washed in their blocks?

A Most of the prisoners who were in my block from the Nuernberg detail had stolen pails and buckets and better than 100 were stolen in Nuernberg, and so whenever we returned the room orderly would have these buckets filled with water where we washed.

Q You inspected the prisoners when they washed on this Sunday?

MR. MCKAY: The question is objected to as argumentative and misstatement of the facts under direct examination.

PRESIDENT: Objection sustained.

(Bengarts-Cross)

Q Did the prisoners wash on that Sunday?

A Whether the prisoners washed I don't know. That is their own personal business. There were some that did not wash at all. I was not concerned with their washing as oberscpo of the camp.

Q Did you not inspect them as they washed?

A That was none of my business whether they washed or whether they had dirt in their ears for three weeks.

Q I did not ask you whether they washed or not, will you answer my question, please?

PRESIDENT: Just a minute, just answer the question and refrain from those wise remarks.

INTERPRETER: What was the question?

(Whereupon the reporter repeated the question.)

Q Answer my question, please, did you, or did you not inspect the prisoners while they washed on that Sunday?

A I never inspected any prisoners at any time. That was the job of the block eldest. I was glad when I had my rest in my block.

MR. BERKOWITZ: Now, refrain from these side remarks as to the duties of other people or the duties of yourself, please, just answer my questions.

ACCUSED BONGARTZ: As an accused, I should have the right to answer the questions in the right manner, if someone accuses me of duties with which I was not concerned at all.

PRESIDENT: Just answer the question, that is all. You will be given an opportunity later on to make any statement you see fit, but don't go into detail about it, simply answer the question the best way you can.

(Bongartz-Cross)

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY MR. BERKOWITZ:

Q On one of these Sundays that the detail remained behind, were you dissatisfied with the manner in which one of the prisoners had washed?

PRESIDENT: The court feels that is a matter of repetition, Mr. Berkowitz, either rephrase your question or ask another question.

Q On one of these Sundays that you remained behind did you find occasion to strike a prisoner because of the manner in which he washed himself?

MR. MOKAY: The question is objected to as being argumentative in form and misstates the facts as testified by this witness.

PRESIDENT: Objection overruled.

A I was never in the camp on Sunday. How could I have stayed back?

Q Did you not just state that you returned to the detail in Nuernberg in the evening on Sunday?

MR. MOKAY: I object to that as a misstatement of facts.

MR. BERKOWITZ: May it please the court, the witness stated that when he returned to the detail in Nuernberg on Sunday evening they complained that they had not been allowed to have the Sunday free.

MR. MOKAY: That is wrong.

MR. BERKOWITZ: I stand on the record on that.

PRESIDENT: Objection sustained.

MR. BERKOWITZ: May I refer to the record, please?

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY MR. BERKOWITZ (CONTINUED)

Q Bongarts, you testified that you were surprised when the prisoners came to you in the evening and when they complained that they had to work. I am referring now to the prisoners who worked in the main station at Nuernberg. Where did they complain to you.

MR. MCKAY: I wish to object to that as a misstatement of fact.

PRESIDENT: The objection of Mr. McKay is sustained.

MR. BERKOWITZ: May I have the reporter read from the record?

PRESIDENT: The court will take a short recess to check the record.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY MR. BERKOWITZ:

Q You testified that you had some of the prisoners relieved from work on two Sundays in March. Were you successful in obtaining the release of all the prisoners?

A I tried to be successful with the chief in Nuernberg and he said that there were to many people in the freight station and the railroad men wanted to have some time off also, but since the main station was more important work, this detail did not get off.

Q Did any of the other prisoners, in addition to the detail in the main station have to work on these two Sundays?

A They were in the camp. That I don't know.

Q Who were the prisoners who complained to you in the evening?

A I have to state there that Commandant Schwarz put all of our detail into a few blocks together since there were so many details. There were 50 details, and in the evening, since I was living with these other prisoners, I was sitting with them at the table, and they said, "Oberospo, we had to work."

MR. BERKOWITZ: Reporter, will you repeat my question.

(Thereupon the reporter repeated the question.)

A They didn't complain to me. They told me that in a confidential manner--that they had to work a few hours, or several hours during that time, and that they had been so glad to get some time off. I don't know their names. They were Russians, Poles, and Ukrainians.

Q Were these prisoners who complained to you prisoners who were from the Nuernberg detail?

(Bongarts-Cross)

A You mean time off? I don't understand the question. The ones who had time off were in the camp.

Q You stated in your testimony that the prisoners complained to you because they did not receive time off and you were surprised about it.

Q Were these prisoners from the ~~Nuremberg~~ Nuernberg detail?

A I don't quite understand the question. The people from the freight station had time off, but when I returned in the evening they said to me, "Oberscapo, part of us had to work."

Q The prisoners who complained to you that some of them had to work were the prisoners who worked on the main station in ~~Nuremberg~~ Nuernberg, is that correct or not?

MR. BERKOWITZ: I am trying to find out, sir, who made these complaints.

A As I stated, they were from the freight station in ~~Nuremberg~~ Nuernberg, not from the main station. Those who worked in the main station had to work all the time.

PRESIDENT: The court feels that this matter is entirely a matter of repetition.

MR. BERKOWITZ: I think it is vital to the discovery of some of the facts.

PRESIDENT: The court directs that you tie it up with the main issue.

MR. BERKOWITZ: I intend to do so--if I get the witness to make responsive answers instead of evading the question and diverting.

(Dougherty-Krong)

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY MR. BERKOWITZ:

Q Therefore, the prisoners who made the complaints were the prisoners who were working at the transfer station on Sunday, is that correct?

MR. MCKAY: The question is objected to as argumentative, repetitious, and misstatement of the fact.

PRESIDENT: The objection of Mr. McKay is sustained on the ground that it is repetitious.

Q Were you surprised when these prisoners made their complaint about working in ~~Nuernberg~~ Nuernberg on Sunday?

MR. MCKAY: Again I must object to it as argumentative, repetitious, and misstatement of the fact.

MR. BERKOWITZ: The witness has just testified that some of these people complained that they had to work on Sunday at the transfer station.

PRESIDENT: The objection of Mr. McKay is sustained on the ground that it is a misstatement of fact of the evidence that has come before the court.

Q Why were you surprised when you found out that these people had to work on Sunday?

A I don't understand the question. I don't know whether one refers to the prisoners who worked at the main station or those who worked in the camp, or whatever it is. I can't make heads or tails of it.

Q You testified that you were surprised that some of the prisoners had to work on Sunday, what was the cause of your surprise?

(Bengerts-Cross)

A I don't know what you mean by "surprise". All I know is when I returned in the evening to the camp and after dinner these prisoners came to me and said, "Obercapo, we had to work for hours." I don't know what they had to work on. They had to dig silly tank-traps, or something of that sort. They were telling me that in Russian, and I only understand part Russian.

MR. BERKOWITZ: I must admit to the court I had a misunderstanding of the testimony. My understanding was that they had worked at ~~Nuerenberg.~~ Nuernberg

PRESIDENT: The court appreciates the fact that there was some misunderstanding on the part of the prosecution.

MR. BERKOWITZ: That is what I tried to clear up.

QUESTIONS BY MR. BERKOWITZ:

Q Who gave you orders concerning the treatment of prisoners in your detail?

A Orders about treatment? No one gave me orders about any treatment. I don't understand that.

Q You mean to say you had this commando under you without any orders as to how to treat these prisoners?

A I went to Commander Schwarz, and he said, "Bongartz, you have been ordered to take over this detail by Schill. See to it that nothing will happen there, that the people are being regarded right, and that nothing bad will happen at the main station or freight station, or any of the places of work."

Q Did you report to Schwarz that you had beaten 20 or 30 prisoners every week while you were obercapo of this detail?

A No. Every second night I had to make a report to the commander, Schwarz, because he took an interest in the ~~Nuerenberg~~ Nuernberg detail. He would then ask me since there were so many air raids, "Did anything happen at the stations at ~~Nuerenberg?~~ Nuernberg?" He said, "Was any looting done?" and I said "No" and then he said "Was anything found by the prisoners?" because actually things were found in the camp which I didn't know anything about as obercapo--things which surprised me when I found

out about them. I didn't tell Commander Schwarz what was stolen in Nuernberg because I had only known him a few days, and as far as I was concerned, he was only my superior SS officer.

MR. BERKOWITZ: Reporter, please read the last question.

(Thereupon the reporter repeated the question.)

MR. BERKOWITZ: In answering my questions, will you confine yourself to the direct answer without any long discussions. I have to remind you again.

PRESIDENT: Bongartz, make your answers concise and to the point. You will be given an opportunity later on to make any statement you see fit or explanation, but at the present time make your answers as concise as possible. That question could have been answered either yes or no very readily.

QUESTIONS BY MR. BERKOWITZ:

Q Did Schwarz ever ask you whether any of the prisoners were beaten?

A Not me.

Q Did he ask anyone in your hearing?

A No.

Q Did he ask whether any of the prisoners had been beaten?

A He did not ask me about this. He had his confidential men in this detail. The doctors were his confidential men.

Q Did they report to him about these beatings?

A I don't know that.

Q Where did you carry out these beatings?

A That happened once in a while at the place of work and then in the shack when they were in there. I would give them a few slaps on the ear and throw them out.

Q Did you give them a few slappings at the place where they worked?

A Yes.

Q Did you state that the transfer station was not worked on by your detail for a period of some weeks before the evacuation?

(Bongartz-Cross)

A No. Not anymore, only the electricians' detail worked about 7 kilometers behind the transfer station and I didn't go there.

Q Do you recall that one of your own witnesses who worked on the railroad testified that the detail worked at the transfer station until April 7, 1945?

A That was the commando leader, Gutmann, who had these 50 prisoners.

Q I am referring to the railroad officials.

A What railroad officials?

Q The gentlemen who had the record of the number of prisoners who worked each day, ~~Klee~~ Oatka.

A ~~Klee~~ Oatka was the one who gave me the orders that four weeks before the evacuation took place, the whole detail was to work at this other place that was a long distance from the transfer station.

Q How far away?

A I would say 3 to 3½ kilometers from this place of work to the transfer station where I used to work.

Q How far away was it from the main railroad station?

A From this place of work it was 7 kilometers.

Q The prisoners continued to work at the main railroad station until the 7th of April, is that correct?

A Until the end, yes.

Q How large was the chain of guards that was thrown around the entire commando?

A I had columns 1, 2, 3, and 4, which was 100 each, which makes 400 at this bridge-building detail, and there were 10 guards to each 100 men, so we had 40 guards there.

Q How far from end to end was the chain of guards?

A You have to consider the territory as it was there. Supposing at the start there was the bank that we were building. The height of this varied from

0.0 to 1 meter and 20. There was the high point and the low point, so that you can consider the whole place of work to have a radius in which the prisoners were and around which the guards were, of 650 meters. I know it exactly because I have measured it, and when we had finished one half, then we would move on.

Q When the guard who accompanied you reached the chain of guards, he would remain with the chain of guards and not go inside with you, would he?

A Partly. He went along with me sometimes. Because he was tired also from walking, he would remain with the chain of guards.

PRESIDENT: The court will adjourn until 9 o'clock Monday morning.

(Whereupon the court adjourned at 1645 hours).

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary / *Intermediate Military Court to be held / *General

Die Verhandlung wird vor dem *Einfachen / *Mittleren Militärgerichte / *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at ..... By Order
um Uhr stattfinden. Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

Pages 6707 - 6804, Incl.

Case No. FLOSSENBURG

*Summary

*Intermediate Military Court

*General

Place DACHAU, GER ANY

Date 18 November 194 6

Prosecutor

Defence Counsel

Interpreter

Reporter

Members of Court: JUDGES:

SCHWARTZ, PETER

SCHARL, LUDWIG

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH DECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

18 November 1946 Pages 6767 - 6853, Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
BONGARTZ, PETER		6767		6780	6775
SCHWARZ, LUDWIG	6782	6823			

EXHIBITS

No.	Description	Marked	Received in Evidence
D-48	Soldier book - Schwarz	6780	6788

Camp Dachau, Germany
13 November 1946

MORNING SESSION

(Thereupon the court reconvened at 0900 hours)

PRESIDENT: Court will come to order.

MR. BURKHALTER: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr. O'Connor who is absent on business of the accused; all the accused are present with the exception of Oswalt, Eisbusch, Losch and Wurst, who are ill and whose interests are being taken care of by counsel.

If there are any spectators in the court who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination.

PETER BONGARTZ, an accused, resumed the stand and testified further through an interpreter, as follows:

CROSS EXAMINATION (continued)

QUESTIONS BY MR. BARKOWITZ:

Q Bongartz, in your direct testimony you stated that you would beat 20 to 30 prisoners a week. Why did you beat these prisoners?

A Because of theft and plundering.

Q What did they plunder?

A They were usually brought into my little room there because they had taken 100 lbs. of butter, 100 lbs of cheese

and I would give them a box on the ear to avoid reporting them to Schill.

Q Did you report them to Schill?

A Not a single one.

Q Why not?

A Because we took care of it ourselves. If a prisoner had been reported, he would have been condemned to death.

Q You mean if a prisoner had been reported to Schwarz he would have been condemned to death?

A I wasn't obligated to report it to Schwarz, I was obligated to report it to 1st Lt. of the SS Schill.

Q Will you please answer my question?

A I can't answer that question because I wasn't allowed to make any report to Schwarz in regard to our work detail.

Q What orders did you have not to report anything about the work detail to Schwarz?

A All cases of plundering and all cases of misdemeanors in the Nuernberg commando had to be reported to 1st Lt. of the SS Schill.

Q Weren't the prisoners under the jurisdiction of Schwarz?

A As soon as the work detail left the camp, the whole Nuernberg work detail took its orders from Schill, was responsible to him.

Q Was it not a fact that Schwarz was responsible for the work and Schill for the prisoners?

(Bonsartz-cross)

A Schill took care of everything that concerned the prisoners in the Nuernberg work detail. He even took care of the food for them.

Q Where did the food come from?

A Lt. Schill would arrange for the food with the National Food Office and we would pick up our food at the railroad station in Nuernberg with the Bavarian Health Work and all the prisoners got extra rations for heavy workers.

Q Did the food come from Hersbruck?

A The food was sent to Hersbruck.

Q Did it come through the camp?

A Yes.

Q Who had charge of the physical welfare of the prisoners?

A The doctors were there for that purpose.

Q Were the doctors under the jurisdiction of Schwarz?

A Schwarz had put in these doctors and put them at our disposal in case anybody were injured at the place where they were working during air attacks or bombing attacks, and the first work detail of 1st Lt. Schill was stationed at the railroad station with civilian doctors there. I can't remember their names.

Q The prisoners' doctors were under the jurisdiction of Schwarz, were they not?

A I was told they were under the supervision of the Staff Physician, Dr. Ehrlich.

Q Dr. Ehrlich was the camp physician, was he not?

A I don't know him as anything else but Combat Air Force doctor.

(Bongarts-cross)

Q Was Dr. Ehrlich the doctor of the camp?

A I never saw him in the camp. I never was in the camp.

Q Where did you see Ehrlich?

A I saw him once in a while when he was being accompanied by Schwarz. I saw him during the evacuation march. I saw him twice at the gate to the camp.

Q He took part in the evacuation from Hersbruck to Dachau, is that correct?

A Yes.

Q On no occasion did you report these plunderings to Schwarz, is that correct?

A I am no squealer.

Q Did you refrain from reporting because you were no squealer or because you had no orders to report to Schwarz as you testified a moment ago?

A There were orders at hand and they concerned the fact that I would risk my own life if I did not report all cases of plundering and theft among the prisoners.

Q But you, nevertheless, never reported it.

A I never reported at all. I let the prisoners do what they wanted.

Q To whom were you obligated to make a report if one prisoner stole from another?

A They were very smart, they would always steal from each other and I always had to intervene to keep the matters from getting further, otherwise the thing would be talked about and I wanted to keep it quiet.

(Bongartz-cross)

Q Will you answer my question?

A What question?

MR. BERKOWITZ: Will you repeat the question?

(Thereupon the reporter read the last question as follows: To whom were you obligated to make a report if one prisoner stole from another?)

WITNESS: I never had such cases in my outfit.

QUESTION BY MR. BERKOWITZ:

Q What were your orders in that respect?

A What orders?

Q What were your orders concerning stealing by one prisoner from another? To whom were you make your report on that subject?

A There wasn't any theft which went on among the prisoners. Prisoners were always taking from one another. They would take what they plundered.

Q Will you answer my question? Did you have any orders in that regard?

A I had orders from 1st Lt. Schill to report every case of plundering but as I said before, I never reported them. I'm no hangman for a bunch of SS big shots.

Q That is the case of plundering. To whom were you to make a report if one prisoner stole from another? Will you answer my question, please?

A I never had such a case.

Q Did you have orders?

A I didn't have any orders about that, either.

PRESIDENT: Bongartz, simply answer the questions. Don't beat around the bush so much. You could have answered that same question sometime ago and saved a lot of time. If you do not know why, so state. As the court told you on Friday, you will have an opportunity to make a statement later on if you see fit, or an explanation. All right, proceed.

QUESTIONS BY MR. BERKOWITZ:

Q When you struck these 20 or 30 prisoners a week, were they struck at the place of work as well as in your booth?

A That all depended. After I had made my rounds during the course of the morning at different places of work, I would come into my room and the prisoners would be standing there. They had already been brought there.

Q What happened to the prisoners after you had beaten them?

A I threw them out.

Q What was the result of your beating on the prisoners?

A I had to be careful what I did. The doctors were inside the little room already and the SS guards and special policemen of the SS were all around the railroad station, and I would give these boxes on the car in the presence of the doctors and they could see that I didn't do anything that would harm the prisoners, and then I would throw the prisoners out.

Q Were the SS guards present when you did this?

A They weren't the SS guards, they didn't do things like that. They were the SS policemen stationed at the railroad station.

Q Didn't do things like what?

A The SS guards from my work detail never brought me a prisoner because of plundering. They themselves would steal like ravens.

Q The SS policemen of the railroad station brought you these prisoners who had stolen, is that correct?

A Usually, or else railroad officials.

Q Under whose supervision were the SS railroad policemen?

A I assume the commanding officer of the guard troop at the railroad station. I don't know him. Every day there was a different one.

Q What was their connection with Schill?

A As far as I know they didn't have anything to do with Schill. Schill had the whole thing.

Q They had charge of guarding the railroad station, is that correct?

A Yes, the whole railroad station area.

Q One of these SS men would report the plundering to you and then you would beat the prisoners, is that the procedure?

A Yes.

Q What was the physical effect on the prisoners after you beat them?

A There wasn't any. After I scolded them they would speed out of this little room.

(Bongartz-cross)

Q Did you do anything else besides scolding?

A A few boxes on the ears, slaps on the ears.

Q What was the physical effect of these few boxes on the ear?

A I can't say, they would run out immediately.

Q Did you run after them?

A No, I had too much to do.

Q You also beat some of these prisoners where they were working. What was the physical effect of those beatings?

A None at all. I would give them a few slaps on the ear at the places of work when they were fighting among themselves about the things they had stolen. They were good for stealing but when it came to splitting up the booty, they would have trouble so I gave them a few slaps on the ears so the thing would be hushed up.

Q Was there any physical effect on the prisoners after you gave them a slap on the ear?

A Not at all. I had a work detail of about 1000 men and if I had harmed these men in any way, the doctors would have noticed it and reported it. You can ask the doctors about it, they are here.

Q What was the physical condition of these prisoners?

A They had all they wanted to eat by me.

Q I asked you their physical condition.

A Good.

(Bongartz-cross)

Q They were some of the prisoners who had come from Gross Rosen, weren't they?

A The main portion, the steady workers in the work detail I had in Nuernberg, they were all from Gross Rosen but there weren't any ill people from Auschwitz there and I would like to make the difference between the two.

Q Just answer my question and make it clear later. Did you ever strike any prisoners with such force they fell down?

A No.

Q Did you ever strike any prisoners in the camp?

A I never had anything to do with the inside of the camp.

Q Will you answer my question, please.

A No.

PRESIDENT: Redirect. Mr. McKay?

MR. MC KAY: Nothing.

PRESIDENT: Dr. Wecker, do you have anything?

DR. WECKER: No.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Do you know any reason why this man, Weber, should have testified against you as he did?

A I can't think of any reason. I only know that at the time we were delivered in the barracks, at the time the Americans freed us, I and Rosenbaum and Weber were all

placed together. Then there was a war criminal committee formed and at that time these two weren't able to make any testimony at all but that was a year and a half ago and since that time they come now and say I had beaten them to death.

Q You mean there was a war criminal committee formed there at that time to hear complaints?

A I was personally here when the Americans entered camp Dachau. There were 30,000 prisoners. We were all very happy and after the liberation had occurred, all kinds of acts of revenge took place here. And I wouldn't be sitting here in this witness chair today if I had actually been guilty of beating these two to death.

Q Did you have any trouble with either Rosenbaum or Weber?

A I had to fire Rosenbaum as he dyman in Column 1 in Nuremberg once.

Q Did he no longer work on the Nuernberg detail?

A Yes. He stayed with the work detail but I relieved him of his duties as handyman. Handymen in concentration camps are the princes.

Q You did have trouble with Rosenbaum, didn't you?

A Not direct trouble. I can't remember that I ever hit him.

Q I understand but did you ever have any trouble with Weber?

A I don't know him at all. I only know he took part in the evacuation march.

Q Do you know whether he and Rosenbaum were good friends?

(Bongarts-court)

A I assume so. That's a puzzle to me. I can't understand that. If someone is beaten to death in a city the police put a great big notice in the paper about it and in a camp like this if Weber and Rosenbaum would have known about it they would have talked about it at that time. Rosenbaum was also in the camp on those two Sundays when this was supposed to have happened at the transfer railroad station when the work detail was supposed to be off.

QUESTIONS BY PRESIDENT:

Q Bongartz, you have testified to boxing prisoners on the air at various times. How often did that happen?

A You can't describe that in words. You can't count up various incidents, I can't tell you. The work detail which worked at the transfer railroad station worked at the station for three weeks, no longer.

Q How many times a day did that happen, as a general rule?

A On some days there weren't any and on other days two or three and sometimes twenty-five. I naturally didn't beat all twenty-five. I would have to intervene sometimes and usually they would know to leave. Sometimes they didn't all leave and naturally the ones who didn't leave would get a box. I had to put a front on in front of the officials.

Q How many times a week did that occur?

A Three, four times.

Q Did you ever hit anybody with your closed fist?

A No.

Q Did you ever use a dummy?

A No, I never had one.

Q Did you ever use a stick or a club?

A No.

Q Just what arm of the service or branch of the service did this fellow, Wurster, your guard, belong to?

A I would like to mention that at the time when I took over charge of the Nuernberg work detail this was a guard unit which arrived in Nersbruck from the Wehrmacht and we received 25 guards out of this Wehrmacht guard unit. I only know Wurster as a member of the Wehrmacht and the runner accompanying guard of the doctors, was also a Wehrmacht guard. He had a green collar insignia.

Q What makes you think he was a Wehrmacht member?

A He was wearing a Wehrmacht uniform. I myself was in the service.

Q Did you ever wear an SS uniform?

A No. I asked him about that myself and asked him how come he wasn't wearing an SS uniform. He said he received orders to report there from the Wehrmacht.

Q How many Sundays off did you actually have during the month of March 1945, Dongartz?

A I didn't have any. I didn't have any myself but during the period of time when I had worked there my work detail had two Sundays off and they had that as a result of the application which I put into the official there who was a big shot and I told him my workers were covered with lice, they had to have a rest period and they would like to have a free Sunday every other Sunday.

Q Do not go into tha much detail, the court has already heard that evidence.

(Dongartz-court)

Q You say you did not have any Sundays off, you personally, during the month of March 1945?

A Not as long as the work detail existed, with the exception of Easter.

Q What about during the month of April 1945, did you have any Sundays off during the month of April?

A We only worked there for a week, eight days. The seventh day was a Saturday, the sixth or seventh, and the first Sunday we evacuated.

Q On those Sundays on which you worked, what time did you get back to camp?

A Latest 9:00 or 9:30 at evening.

Q What was the earliest?

A At 5:30 in the morning we would shove off for work.

Q I am not speaking of the time you shoved off for work. I am speaking about the time you actually returned to camp on those Sundays.

A At the earliest 9:00 to 9:30.

Q The court is not clear whether you fully understood this question. What the court wants to find out is - these Sundays which you worked during the months of March and April 1945 - just what time you got back to camp.

A From 9:00 until the last at 9:30 in the evening.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q What time did you quit work, Bongarts?

A We had official working hours from 8:00 to 12:00 and from 1:00 to 5:00 and we never worked longer than that.

(Bongarts-court)

Q Did it take you from 5:00 to 9:00 o'clock to get home every evening?

A The reason we were on the railroad strip so long in the evening is because there was always an air raid attack and we didn't travel.

Q How did it happen every Sunday evening you got in between 9:00 and 9:30?

A At 5:30 we would get into the train and the engine would come around 6:00 and then they would see some strafing planes come. They would unhook the cars, we would all get out and then they would hook on the cars again and we would get in and we would stutter on again and in the last weeks Nuernberg was a fighting zone.

Q How long did it take you to go to Hersbruck if you didn't have any trouble?

A We'd leave in the morning at 6:05 and if we didn't have any trouble we'd get there 8:15 at the earliest. We had to allow all the ammunition trains to pass us.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. MCHAY: Nothing further.

DR. WAGNER: No.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR. BERGOWITZ:

Q Mr. Boogartz, you didn't work the first Sunday, the 1st of April 1945. That is Easter Sunday. Is that correct?

A I didn't work at the transfer railroad station. We cleared out all these corpses and buried them in a mass grave

[illegible]

[illegible] all [illegible]

[illegible] with [illegible] the [illegible] that [illegible] to [illegible] station, [illegible] the [illegible].

[illegible] further [illegible] time.

[illegible] further [illegible] court [illegible] further.

[illegible] further.

[illegible] Mr. Secretary

[illegible]: Nothing.

[illegible]: Mr. Secretary, the court will give you an opportunity to make any explanation you see fit or any statement to the court, but make it as brief as possible.

[illegible]: I would like to mention the fact that [illegible] to the prosecution witnesses who [illegible], I would like to call the court's attention to this hypothetical [illegible], [illegible]. If I had [illegible] violence in the [illegible] I would [illegible] it. [illegible] proper answers and never [illegible] name.

[illegible]: Anything further, [illegible]?

[illegible]: No.

[illegible]: [illegible] will [illegible] his position in the dock.

([illegible] the dock.)

[illegible])

PRESIDENT: Defense?

DR. WACKER: Schwarz, No. 43, now takes the stand in his own behalf.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court took a recess in place.)

PRESIDENT: Court will come to order.

LUDWIG SCHWARZ, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Ludwig Schwarz.

Q Are you an accused in this case?

A Yes.

Q How old are you?

A 47½ years old.

Q Are you married?

A Yes.

Q Do you have children?

A Yes.

PRESIDENT: Just a minute, Doctor. Schwarz, the court understands that you desire to take the stand in your own behalf?

WITNESS: Yes.

PRESIDENT: Proceed, doctor.

QUESTIONS BY DR. WACKER:

Q What is your civilian profession?

A A brewer.

Q Where were you in that capacity for the last time?

A I was with the brewery Leicht-Vaihingen.

Q Mr. Schwarz, please tell us very briefly the steps in your civilian profession, your career as a civilian.

A Four years in the grammar school, nine years in the high school, six semesters in the technical university in Munich, and I took an examination for a diploma in agriculture, and then two years of practical experience in agricultural matters in a society. Four years I was a volunteer in Paschorr Brewery in Munich and then four semesters in the brewery university in Weihen-Stephan, near Freising, and I left that institute as a qualified brewery master with a diploma, and then I again had practical experience in the Hoffbrauhaus in Munich, and then, since 1931 I was a technical manager of the brewery in Leicht in Stuttgart.

Q Were you a member of the Party?

A Yes.

Q When did you enter it?

A 1937.

Q Were you a member of the SA?

A Yes.

Q When?

A 1933.

Q What rank did you have in the SA?

A Troop leader.

Q Did you have an office in the Party?

A No.

Q Did you take part in the First World War?

A Yes.

Q From when to when?

A From 1917 to 1918, until the end.

Q Were you at the front?

A From June 1918 until the end I was at the front in France. Before, Verdun and Champagne.

Q What rank did you have when you were released?

A In January 1919 I was released as a sergeant and as an applicant for the rank of reserve officer.

When were you drafted in this war?

A In September 1939.

Q In what capacity? Where did you go?

A In 1935 I had already been called in to take part in reserve exercises, maneuvers. As a result of the fact that in the last World War I had the rank of sergeant and was an applicant for a reserve officer commission, in 1936 I was promoted to the rank of reserve lieutenant and in this capacity I made reserve maneuvers in the following years and then, when the war broke out in September 1939 I was drafted to an artillery regiment in Ludwigsburg.

Q Mr. Schwarz, please tell us about your experiences in the war, very briefly.

A In December 1939 I was promoted to 1st lieutenant of the reserves and in June 1942 to captain of the reserves.

Q Did you see action?

A Because I was an elderly 1st lieutenant, shortly after the beginning of the war I took over charge of a

battery and with that battery in 1940 I took part in the French campaign, and from the 22nd of June 1941 until 1942 I took part in the Russian campaign the whole time. In May 1942 I was returned to the native land because of my age and came to a replacement division and there I was given charge of training recruits. And in October of the same year, that was in 1942, I was again transferred to Russia and I stayed there a year and a half and came back to the country again because of my health and was sent back to a reserve division. I spent a quarter of a year being treated for my teeth and during that time I was leader of the convalescent battery. That was from March to June 1944 and after my treatment with my teeth had been finished, I had to stand ready for use somewhere else.

Q Where did you go then?

A I was sent, ordered, to Oranienburg to Division D of the SS Main Economics Section and I was supposed to report there as company leader of an SS guard division.

Q Where did you go then?

A After I reported in at Oranienburg the 1st of June 1944, I was immediately sent to Dachau.

Q Where did you go from there?

A From there I was immediately sent to Camp Kaufering which had just been put up at that time.

Q In what capacity did you serve at Kaufering?

A Kaufering I was the company leader and were detail leader.

Q How long did you stay in Kaufering.

(Schwarz-direct)

A Half a year, until the 12th of December 1944.

Q Where did you go December 1944?

A 12th of December 1944 I got an order to take over charge of the camp of Hersbruck in the same capacity - company leader and work detail leader.

Q Mr. Schwarz, you said you had been ordered to Oranienburg in the capacity of artillery leader. Did you stay as artillery leader or were you taken over by the SS?

A I was merely ordered over there and so I stayed over there as an officer of the Wehrmacht. I was not taken over by the SS, I merely had permission to wear the SS uniform.

MR. MC KAY: Miss reporter, I hand you a soldier book which I should like to have you mark as the next Defense Exhibit for identification.

(Whereupon the reporter marked the document referred to as Defense Exhibit 48 for identification.)

QUESTIONS BY DR. WALKER:

Q Mr. Schwarz, I hand you a document which has been marked as Defense Exhibit 48 for identification and ask you what that is?

A That is my pay account which I carried as a means of identification until I was taken prisoner.

Q By looking at this pay record, can you tell what rank you had?

A Yes, here it is, first page, you can see that on the 1st of June 1942 I was promoted to the rank of captain.

Q Can you tell by looking at this pay account whether

you were a member of the SS or the Wehrmacht?

A By looking at page 4 here you can see that it is marked here by the competent replacement division, and that it is also marked here "light artillery Division 11 Sudauen". That is my basic troop organization.

PRESIDENT: It is perfectly all right to form the predicate for that exhibit but until it has been introduced in evidence the court does not want you to testify from the document.

The court will take a half hour's recess.

(Thereupon the court recessed at 1000 hours)

(Whereupon the court reconvened at 1035 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present; all the Accused are present with the exception of Oswalt, Losch, Eisbusch and Kurst, who are ill, and Sommerfeld who is conferring with counsel. The interests of those accused who are absent are being taken care of by counsel.

Any spectators in the courtroom who expect to be called as witnesses will please leave the courtroom.

PRESIDENT: Continuation of direct examination, Dr. Wacker.

DR. WACKER: I now offer Exhibit 48 as evidence.

PRESIDENT: Any objection on the part of the Prosecution?

PROSECUTION: No objection.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive Defense Exhibit No. 48 in evidence and give it such weight as the court sees fit.

(The document heretofore marked Defense EXHIBIT No. 48 for identification was received in evidence as Defense EXHIBIT 48, is attached and made part of the record.)

LUDWIG SCHWARZ, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY DR. WACKER:

Q Mr. Schwarz, can you tell by looking at your pay record and personal identification here whether you were a member of the SS or the Wehrmacht?

A By looking at this pay book --

PROSECUTION: I object to that, may it please the court, on the grounds that the pay book itself is the best evidence of that fact.

DR. WACKER: I withdraw the question.

QUESTIONS BY DR. WACKER:

Q Can you tell by looking at this pay book whether you were authorized to wear an SS uniform or not?

PROSECUTION: I object to that on the basis that the pay book itself would state that. It is the best evidence.

DR. WACKER: I also withdraw this question.

QUESTIONS BY DR. WACKER:

Q Were you authorized to wear an SS uniform?

A Yes, I received this permission.

Q Can you tell that by looking at the pay book?

A Yes. In this pay book there is an entry which also was to be used as identification for me and it says there that I was commanded to the Waffen SS and I am authorized to wear the uniform of a captain in the SS.

Q Did you wear an SS uniform as a member of the Wehrmacht

A Partly.

Q What do you mean by part of the time?

A At first I wore the uniform of the Wehrmacht and then, upon the order of the Commandant of Dachau or Flossenburg respectively, I had to wear an SS uniform.

Q Were you ever taken over by the SS?

A No, I was not taken over by the SS.

Q When did you arrive in Hersbruck?

A I arrived the 13th of December '44.

Q What were your duties in Hersbruck?

A I was supposed to relieve the former commando leader, Captain of the SS, Forster, of his duties and so I should be commando leader and company leader in Hersbruck.

Q From whom did you take your orders?

A I was under the direct jurisdiction of the camp Commandant of Flossenburg, Koegel.

Q As a commando leader in Mersbruck did you have direct power over the outside camp or not?

A I must make a difference here in regard to my authority as far as the camp itself was concerned, I had to take care of the food conditions and feeding of the troops, but I had to stick to the general orders which Commandant Koegel of Flossenburg had put out.

Q When you arrived in December 1944 in Mersbruck, in what condition did you find the camp?

A When I arrived in Mersbruck I found that the camp was in a rather pitiful situation. Looking at it purely externally, the camp had not been fully built up.

Q Mr. Schwarz, lease give us a brief description of the external appearance of the camp.

A I arrived in camp at a time when I could really see everything that was missing. The camp was built on a very unfavorable spot. It was lying in the middle of fields. Whenever it rained the fields would turn into swamps. You couldn't walk from one barracks to another without sinking down to your ankles in the mud and the roll call square was in the same condition. My first worry was to change the situation from the very beginning. The barracks had been erected but a lot of things were missing in order to make them livable. The kitchens and the warehouses had not been completely equipped and the same

(Schwarz-direct)

thing holds true for the hospital.

Q What kind of conditions did you meet as far as internal goings on in the camp were concerned?

A As time went on I had to recognize the fact that when Forster was there and had charge of it, caprice reigned.

Q What do you mean "as time went on"?

A I say that because when I first arrived I wasn't able to encompass the whole situation. Forster, when he turned over the camp, he did that in a great hurry. He was only there a few hours when he went to the front.

Q How many prisoners did you take charge of then?

A About 4800.

Q What kind of prisoners were they?

A There were prisoners of all nationalities. In all there were about twelve nationalities.

Q Did you notice anything else about them?

A Those nationalities had come from all areas of Europe as was shown, and corresponding to that the cultural levels of the different prisoners varied a great deal. For instance, there were prisoners there who had no idea of the progress civilization had made such as plumbing and automatic water closets, and you had to draw that into account as I continued in charge of the camp.

Q What else did you find out in general in regard to the time when Forster was there? I beg you, Mr. Schwarz, not to go into detail but just tell us what you noticed.

A I myself wouldn't be able to hold a long lecture about the conditions when Forster was there because I wasn't there in the camp when Forster was there.

I only know that I could see the effects of the leadership of Forster later on and I must say that Forster didn't pay much attention to the camp and things happened any old way.

Q In that regard what were you able to determine?

A I found out that SS people as well as block elders and capos took part quite a bit in beatings.

Q What did you do after you found that out?

A From the very beginning I made it my basic policy to forbid any beatings. That held true for the SS as well as for the inmates of the camp.

Q Were your orders carried out?

A My orders were carried out, I saw to that myself, and I constantly convinced myself that my orders were being carried out by interrogating the prisoners myself and checking them. But it was clear to me that certain incidents of beatings still took place within the camp.

Q What particular incidents are you referring to now?

A I have to explain that. I'll have to go back to the internal organization of the camp, the way it was run, and there is a basic difference here between beating and mistreatment.

Q Please explain to the court exactly what you mean by that.

A There was an unconditional prohibition to beat anyone, that's right, but, on the other hand, it was necessary to maintain order, discipline in the camp. And in that

respect, to carry that out, the various camp functionaries, block elders, capos, etc. were responsible. When they felt themselves forced to give a few blows in order to carry out their duties, then I could understand that, and I knew that under these conditions they could make out. Even though I didn't get detailed reports about these incidents, I still knew them.

Q What particular incidents of beating are you referring to? Beatings which the camp functionaries carried out?

A I'm thinking now about incidents where camp officials, in order to carry out their orders, would have to hit someone with their open hand. For instance, I'm thinking of any trouble which occurred when the food was being given out on the block, forcing people to maintain cleanliness whenever that was necessary. There were sometimes no other way about it. The block elders would have to make their presence known by giving one a box on the ear. You have to transfer yourself into the conditions inside the camp. For some prisoners it was enough to give him a warning word but there were some prisoners who wouldn't allow themselves to be taught by a warning word to carry out their duties. And sometimes then in these cases, it was unavoidable that a block eldest sometimes would give someone a box on the ear in order to carry out his functions, but I would absolutely not tolerate anybody being mistreated or beaten with a stick in order to maintain cleanliness and order in the camp, and I checked up on this by making checks on the prisoners and asking the prisoners themselves. I would like to mention an example here. The

way it is in a school, the teacher sometimes has to give someone a box on the ear to maintain order in the classroom, whereas some people know what the score is when they get a warning glance or some kind of a reproach. I mean by that that there are some people who have a higher intellectual level, who understand when you give them a warning glance or a warning word, and other people who stand on a lower intellectual level don't understand that, don't react as well. The only way that I could be sure that any directives would be carried out would be to put such people in those official capacities who would see to it that they could understand the meaning of my directives and carry them out. When I chose these people I did not make any difference between Germans and foreigners. In these official camp positions there were at least as many foreigners as Germans.

Q Why was it not possible to take care of all incidents that occurred because of some misdemeanors by reporting them and avoiding boxes on the ears?

A Many incidents took place in regard to misdemeanors and cleanliness and order in the camp. It would have been a very long process to take care of these incidents by reports.

Q Did you have any kind of certainty that these orders did not lead to any mistreatment?

A Yes, I had this certainty as I said before. I put the corresponding people on those official positions. Besides that I had convinced myself by checking up on things

inside the camp and asking the prisoners whether my directives were understood correctly and carried out. I can't remember that a prisoner ever complained about a box on the ear or anything similar.

Q Would he have this opportunity, this possibility?

A Yes, he surely had that. From the very beginning I told all the prisoners that anybody could come to me and complain about anything, and certainly many of the prisoners who received a box on the ear considered that a punishment that they would be glad to get if that was all they would get. Because if their transgressions would have been reported to me I would have probably had to pass it on to higher authorities or be sure the party in question would have been punished with harder punishment than a box on the ear.

Q What did you find out about any cases where unauthorized beatings or too hard beatings occurred?

A No such case was ever reported to me and therefore I had no need to intervene. I must make a small correction there. There were some SS guards who had done harm to prisoners and who were reported to me and I punished them correspondingly as witnesses here have testified.

Q Are you thinking now about the beatings which the witnesses Hilpert and Giesler testified about when they were talking about the blackboard?

A Yes.

Q Please give the court a short description of incidents which took place, which later were posted on the blackboard.

(Schwarz-direct)

A People involved there were guards who beat a prisoner for some reason or other and those incidents were reported to me by the work detail leaders or the prisoners and if I had occasion to intervene, then I did it.

Q How did you act in regard to the more serious cases?

A If I thought that I couldn't punish the cases sufficiently with the means at my disposal at Hersbruck, I would pass these cases on to Flossenburg to higher authorities for higher punishment.

Q Did you actually report members of the SS to Flossenburg because they had mistreated prisoners?

A Yes.

Q How many cases?

A I remember one case where an SS man jabbed the butt of his rifle into the back of a prisoner and seriously mistreated him. For that reason I passed this case on to Flossenburg.

Q Was that the only incident?

A Yes, that's the only one I remember.

Q How many cases did you take care of yourself by issuing punishment in your own jurisdiction?

A It would be about four or five cases.

Q Did any other beatings take place in the camp with the exception of these incidents which you have already mentioned in this interrogation?

A I will now have to mention the beatings which I was alone responsible for if we are going to use the word "beatings".

Q What do you mean by that?

(Schwarz-direct)

A On the occasion of a visit of Camp Commander Koegel he asked me why he didn't receive any reports about beatings going on in the camp. I expressed myself rather poorly there. What I mean to say is he asked me why I didn't pass on any report of misdemeanors in the camp, why I didn't pass them on to Flossenburg and why I didn't ask that blows with a stick be given. I said that that kind of punishment defeated its own purpose because the official channels would take so long it would take at least two months before the man was punished and under these conditions the punishment loses all its effects. He said that he could authorize me with the proper authority and I would be able to give five to ten blows with a stick on my own jurisdiction.

MR. MC KAY: Let the record show that the accused Kurat and Liebusch have returned to the dock.

QUESTIONS BY DR. WACKER:

Q Did such incidents ever take place where you yourself would give blows with a stick on the basis of this authorization which Koegel had given you?

A Yes, those kind of incidents did take place.

Q Please give us some examples there and explain to us what kind of incidents they were.

A One day a young Russian was brought into me and it was apparent he had been beaten rather heavily. He had obviously received blows in the face. I say that because he had a swollen head. I asked him why he had been beaten and upon further investigation it came out that another Russian was trying to use him for homo-sexual purposes.

He had defended himself against the demands of this other Russian and the other Russian had beaten him then. I let both of these people come into my office and I investigated the matter and I was able to convince myself that the young Russian was speaking the truth and then I condemned the perpetrator to ten blows of the stick and they were performed under my own supervision.

Q Usually, how did you treat such incidents, handle such incidents?

A I never passed a quick judgment about such cases. I always thoroughly investigated them. I would let the people in question come and be interrogated. I would have witnesses called and I never passed a punishment until I was sure that a punishment had to be passed. If some cases were not clear, or there was some doubt about it, then I would let the parties go with a warning. I must say here for myself that as a leader of a unit in the Wehrmacht I had insight as to what should be punished and what should not be punished, and I could decide whether a punishment was necessary and what punishment was necessary.

Q Did the accused have a chance to speak for himself?

A Always.

Q Were witnesses interrogated, also?

A Certainly, I already said that.

Q How did you go about it when one testimony would be placed against the other. For instance, when two prisoners were testifying against each other?

A Then I couldn't do anything more with the case and I would forget about it. After all, I couldn't carry out a long courtproceeding. I had to believe the testimony of each one.

Q Why were blows given in such cases where a punishment had to be given? I mean, was there not any other possibility of punishing these people?

A That depended on the measure of the transgression. If I was convinced that the punishment had to be severe then I could only recommend blows with a stick. There wasn't any other possibility of punishing them.

Q Why not?

A You could think in this regard about keeping them in arrest, perhaps, but if you keep someone under arrest and still feed him, that isn't punishment at all. And there was an order which came out from the higher authority when a prisoner in the work camps would be put in arrest it was forbidden to keep his food from him. If I had ordered a prisoner to be confined, then he would have led a better life than his comrades outside who had to work in the face of the inclement weather and so on. He could rest himself and take it easy.

Q Are you in a position to describe to the court any similar incidents, not any that you have already described, similar to the ones you mentioned - the one in which the two Russians were involved?

A Yes.

Q I do not want you to give any examples now, I just want to know if you could give any more if the court asked you to?

A Yes, I could quote other examples in that regard but I must mention here that the number of these incidents was restricted to a very small number. I only made use of

this punishment in about five cases.

Q Did I understand you correctly? Did you say that you yourself were solely responsible for these blows?

A Yes, that is right, because I was the one who passed the judgment.

Q Did you yourself carry them out?

A No, but in my presence.

Q Who else was present?

A Roll call leader was present, the camp elders and there were other people there in the camp clerk's office.

Q Did this beating hurt the health of the party in question in any way?

A No, nobody was beaten bloody and nobody was beaten so badly he had to be delivered to the hospital.

Q What were you able to determine in regard to health conditions in the camp?

A When I first got to the camp my first concern, of course, consisted in finding out what conditions reigned in the hospital and how the hospital could be expanded, and I found out that the number of sick people in the camp was great and corresponding to that, the mortality rate was a large number.

Q What did you do first?

A First of all I got in touch with the camp doctor, the Chief Staff Doctor, Dr. Ehrlich. He was always present and I asked him to give me a detailed report about the conditions of health in the camp.

Q Did that happen?

A That occurred in a detailed consultation and he described to me in all details exactly what conditions were present.

Q Please describe to the court very briefly what kind of conditions in regard to health were present in the camp then, according to what Dr. Ehrlich told you on that occasion?

A Dr. Ehrlich told me that the health conditions in the camp had sunk to a rather low point and when he told me that he had, of course, to touch upon incidents and conditions which reigned before my time. And I asked him what his opinion was, what reasons were responsible for that.

Q What kind of reasons did he tell you?

A First of all he said that one of the reasons was the fact that prisoners had been transferred from other camps who had been exposed to the weather and couldn't match the necessary work conditions. He found out that many prisoners had been transferred directly to the camp from the east and these people had already had a lot of hardships behind them and they were quite a bit run down even before they reached Lerstbruck and it was clear, without anything else, that these people would fall prey to illness very easily.

Q Did you talk to Dr. Ehrlich at all about the mortality rate?

A Yes, of course. In that connection he had to touch upon that point.

Q What did you do?

A After Dr. Ehrlich talked to me I could see that the mortality rate was rather high and I wanted to get to the

bottom of it and for that reason I ordered that all deaths be recorded according to numbers and this mortality rate should be charted and looked at from serious standpoints.

Q Are you referring now to the graphs which the witness Lenz gave to the court?

A Yes, I mean just those.

Q What was the result then of these discussions with Dr. Ehrlich and these graphs?

A As a result of repeated consultations with Dr. Ehrlich and these charts which we drew up which, of course, couldn't give a complete picture, we were able to determine that the reasons that the two basic reasons for the high mortality rate and the causes of death could either be changed by me or they were of such a nature that I couldn't do anything about it.

Q What do you mean by that, that on the one hand you could change it and on the other hand you couldn't?

A I could arrange conditions in the camp so that sickness and eventually the death rate would be dropped down considerably.

Q Please explain to the court briefly, Mr. Schwarz, in what respect you could make a change?

A Certain steps were necessary. First of all I could give the people the necessary clothing as far as we could.

Q Did that happen?

A As far as we could get hold of them I gave out all the clothes which we had at our disposal in the clothing room, especially leather shoes, winter clothing such as sweaters and ear muffs, and chest protections. Beside that I saw to it that the dirt and mud in the camp was done away with.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order. Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Mr. Schwarz, you talked about the mud and the dampness which existed between the blocks and the roll call square. Did that have anything to do with the condition of health?

A Yes, that certainly had something to do with it because the people already received wet feet before the entrance of the camp and went to work and had to work with wet feet. It is clear they were ready to catch cold already.

Q What did you do about that?

A I saw to it that the wetness in the roll call square was done away with by having it paved and I saw to it that sidewalks were put in connecting the various barracks so that people wouldn't get wet feet.

Q What else did you do to reduce the mortality rate?

A I believe we are talking about the illness.

Q I am talking about the illness and also the mortality rate.

A I saw to it that the barracks were heated so the people, if they came back from work wet, they could take off their clothes and dry them. And above all I saw to it that the free period of time which the prisoners received would not be shortened. In that regard I ordered that the roll calls were carried out as quickly as possible. I only ordered that one roll call a day be made and that roll call was carried out near the blocks so the people wouldn't have to make a long jump to the roll call square

and back again and as soon as the roll call was over the people could go back to their blocks and that kind of roll call lasted only about fifteen minutes. And then I took steps to guarantee that the prisoners would not be disturbed in their sleep and I saw to it that the people on the night shift who had to leave and go to work in the night would sleep in a barracks all by themselves so that when they stood up they wouldn't disturb the other prisoners sleeping. That all may appear as rather trivial here but that was very important in the camp and besides that I kept a special eye on the hospital. I saw to it that as many sick people as possible would be taken into the hospital. I did that by using other barracks for that purpose and also having new hospital barracks built. At the end there were three hospital barracks and four convalescent blocks.

Q What kind of conditions did you find in December?

A In December there was one hospital barracks and two convalescent wards.

Q Were any new hospital barracks built?

A When we left the camp a hospital building had already been started in construction. It was planned on the basis of suggestions made by Chief Physician of the Staff, Dr. Ehrlich and in consultation and agreement with the building authorities. I don't want to go into detail with it but they were supposed to install special bathing facilities, operation halls and things of that nature. It's only too bad that the thing wasn't carried out sooner

because it would have helped us a great deal for sure.

Q Why didn't they do that earlier?

A Well, Doctor, you'll have to think now that we were in the last months of the year and already in the sixth year of the war. It didn't go like that that as soon as you decided to start something in construction that it would move on immediately from that point.

Q Could you build that on your own authority, on your own jurisdiction or not?

A That was impossible. I had to rely upon the building authorities in regard to this construction which we had in mind. I had to make this proposition to them. There the plans were made and then it lasted so and so long until the building material arrived.

Q We do not want any more details about that, Dr. Schwarz. Please tell us now about the conditions which you could not change.

A I would like to mention one more fact in connection with that other regard and that is that I discussed at great length with Dr. Ehrlich that the conditions according to which people were received in the hospital be expanded as much as possible.

Q What do you mean by that?

A I mean that when someone had a fever he would immediately be taken into the hospital. I didn't want to have people narrow minded about it. I wanted them to think

the man is sick or there is a chance he will be sick and in order to avoid any serious illness he should be taken to the hospital immediately and treated and this high number, one-third of the people in the camp, who were sick as the witness testified here, that could be traced back to that.

Q Please tell us now about the conditions in the camp which you said you could not change.

A I couldn't change anything in regard to the physical condition in which the people already arrived in the camp. I couldn't do anything about the influence of the weather. I couldn't do anything about the conditions under which people had to work.

Q Why not?

A Because the working conditions were ordered by a higher authority and I had to carry out those orders.

Q Please explain to the court quite exactly whether you were the one who ordered the work or not.

A When I arrived in this camp the individual work units were already in existence.

Q In general, what did the work of the prisoners consist of?

A The prisoners working on a construction project near Hersbruck and space was going to be built there where war industries would be erected, they would work into a hill there making excavations and the war industries would be quartered inside these excavations in order to protect them against bomb attacks.

(Schwartz-direct)

Q Why didn't you change these working conditions?

A This building project was carried out by a building staff. Kammler, that's an official office in Berlin which had a lot of power endowed to it by the National Leader of the SS. The SS leadership staff in Herzbruck was an office which took its orders from the mother office in Berlin and this SS leadership staff in Herzbruck determined the whole works.

Q What did you have to do in regard to committing people to this work? What did you have to say about it?

A I had nothing to do with this SS leadership staff. That is to say, I couldn't order them to do anything. I could only give them reasons and suggestions but except for that, I didn't have any authority at all.

Q Did you try to change the working conditions for the prisoners?

A Of course I tried to change it. I couldn't stand there idly and see that the prisoners worked month after month without ever having a free Sunday. I least I got so far that the prisoners got every third Sunday off. I tried to see to it that the working hours were shortened. When I did that they told me that the German workers and the foreigners who worked in Germany had the same working hours as the prisoners and therefore, for that reason, they wouldn't make any exceptions with the prisoners.

Q That other reason was there for the illnesses and the mortality rate, a reason which you couldn't change?

A Another reason as far as I can see, was the food.

Q What did you do in that direction, or what could you not do?

A At any rate I couldn't do anything to increase the food rations any higher than they already were.

Q Who had already determined the food rations?

A The food rations were determined by the National Food Ration Office. It was determined uniformly for the camps as well as the civilian workers.

Q Was all food rationed?

A Yes, during the whole war.

Q Did that also apply to vegetables?

A Vegetables also stood under economic control. It was sometimes possible to get vegetables from a farmer but that wasn't usually possible. In the Spring of 1945, I have to mention in this connection, I tried to make myself independent of the outside food supplies and I made deals with farms. I ordered vegetables from those farms so that for that summer we would get vegetables on our own.

Q Mr. Schwerz, do you remember the testimony of a witness, a former person who was in Hersbruck, a prisoner, who said the food was inedible? What do you have to say about that?

A Yes, I remember this testimony very well and I must say that what the witness said here about that does not correspond to the truth because I took pains to see how the food was prepared by making inspections to the kitchen almost every day.

Q In December '44 when you came to the camp, what were the conditions in the kitchen? Were they all right?

A Not as far as I was concerned.

Q What did you do about it?

A I fired the people who were working in the kitchen and I put in people who I believed would see to it that the matter would be brought in order. As I already mentioned, I saw to it that the potatoes would be peeled again. Flossenburg had already put out that all the potatoes which would be given to the prisoners to be eaten would be not peeled. Maybe that made the food taste better but I believed that potatoes with the peels on would be a source of sickness, that is, according to the experiences which I had already made in former camps.

Q Were you able to get any additional rations to the food rations which were given to you by the official food office?

A As far as food is concerned which did stand under the economic control, such as vegetables I wasn't able to get anything. I negotiated with the authorized food office and I saw to it that the prisoners got rations for heavy workers and saw to it that 400 of the sick people got a certain ration for sick people, but that is all I could do in that regard.

Q Mr. Schwarz, do you remember the testimony of a certain SS man, Aulla, who I believe said that the food the SS men got was worse than the food the prisoners got. What do you have to say about that?

A I must say from the very beginning, you can't make any comparison between the food the prisoners got and the

food the SS got. There was a definite separation between the SS kitchen and the prisoners' kitchen. The portions which the SS got and the prisoners got were, all in all, the same and the preparation of the food was generally the same. When the prisoners got extra rations for heavy workers, that wasn't possible for the SS to get.

PRESIDENT: Court will adjourn until 1:30 this afternoon.

(Whereupon the court adjourned at 1200 hours.)

Dachau, Germany
November 18, 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all of the personnel of the defense are present; and all of the accused are present with the exception of Oswalt and Lobsch who are ill and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom.

PRESIDENT: Continuation of direct examination, Dr. Wacker?

LUDWIG SCHWARZ, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY DR. WACKER:

Q Mr. Schwarz, before the recess you said it was not possible for the SS men to get the extra rations which some of the prisoners got, and also some of the sick people. Who ate better, the SS or the prisoners?

A The food was the same but the preparation was different. Whereas we had to cook for 5,000 prisoners for 1 kitchen, we had only to cook for 500 SS in the other kitchen, and in that kitchen the various items could be prepared separately, such as vegetables and potatoes, and it was possible only to cook a stew for the prisoners.

Q Mr. Schwarz, you did not answer my question. Who ate better, the SS or the prisoners?

A The food was the same as far as the quantity was concerned.

Q You mean to say by that that the SS and the prisoners were nourished in the same way?

A As far as the food portions were concerned, yes. But the prisoners would have sometimes more because they got those heavy rations for the heavy workers; whereas that wasn't approved in connection with the SS, but an SS man had a chance of getting food other than the food which was authorized him. For instance, he had some food cards and he would get packages of food--but they were individual cases and it all depended where the man came from. If a man came from a big city that he never had this chance.

Q The food that the prisoners got, was that enough or not?

A The food was not enough in regard to the work which they had to do.

Q What could you do or what did you do to help this situation?

A Besides these rations for heavy workers which I asked for and got for the prisoners, I attempted to get extra rations from various farmers and dairies, but you can imagine that we didn't have much success in this matter because it isn't a simple matter to get extra food for 5,000 prisoners.

Q Mr. Schwarz, since you are of the opinion that the food at the disposal of the prisoners wasn't enough to feed them, in view of the fact that you had to do this work, what did you do to help out the situation?

A I had to rely on the food portions which were given to me. I couldn't do anything about that. I couldn't do anything more. I couldn't give a prisoner fifty grams extra bread if I didn't have the

food authorization tickets or the food for that. The only thing I could do was to see that every bit of the food which I got was given out, and that is what I did. I saw that the food was carefully prepared and that nothing was wasted, and saw that the food was nourishing and tasty. I convinced myself that that was being carried out because I would taste the food myself on occasions, and I constantly determined that the food in the prisoners' kitchen was better than the food in the SS kitchen. Many guards assured me that on occasions they would rather eat in the prisoners' kitchen than eat the food which the SS got.

Q Do you have anything else to say about the food situation?

A Not at the present time, no.

Q Did executions take place in Hersbruck?

DR. WACKER: Before we go into that I would like to touch upon another point.

(Whereupon Dr. Wacker asked another question, as follows:)

Q We were talking about the cases of illness and death. In regard to death cases, what could you do to reduce them?

A Practically nothing.

Q Please tell us now about the prisoners' transport from Gross Rosen?

A The transport which arrived in Hersbruck from Gross Rosen in the middle of February brought the camp a new batch of sick people. Witnesses who have appeared here have always testified about the physical condition in which the prisoners arrived from Gross Rosen. In the following period of time the number of sick people increased quite a bit. And in connection with that, of course the mortality rate increased.

Q Were there enough doctors there?

A There were prisoner doctors put to work and besides that I asked Dr. Ehrlich, the chief staff physician of Flossenburg to send a second doctor there so that we could take care of the situation. My proposition was approved and Dr. Gieger then came as a doctor.

Q What was the situation in regard to medicine?

A There were medicines there. I am no doctor and I am no druggist and I can't tell you exactly, but I know that some medicines were missing, specialized medicines which were needed and weren't there. That wasn't any situation which was exclusive to Mauthausen. That was the case all over the country. Many medicines weren't manufactured any more and the medicines which were there were in insuf-

ficient quantity and there were all kinds of leaks.

Q Did you have any epidemics in Herzbruck?

A Yes.

Q What kind?

A In February a typhus fleck fever epidemic broke out. Steps were taken to curb this epidemic and we succeeded in keeping it down quite a bit. The first step which was taken was a thorough delousing of the camp, and any prisoner who was suspected of having typhus was isolated, and the witness Dr. Gieger has already testified about the further medical steps which were taken.

Q Did you tell other authorities about the number of sick and dead in Herzbruck?

A Yes, that happened also. It was my duty to keep the commandant of the camp in Flossenburg in constant touch with the state of health of people in Herzbruck. That was achieved in weekly reports which were written by Dr. Ehrlich and they took these into town and

and sent them on to Flossenburg, and besides that we often had discussions with the camp commandant, Koegel, because of the number of sick people and the mortality rate. Besides that I had to make reports at intervals of time to the higher SS doctor and police leader Martin in Nuranberg.

Q Do you have anything else to say about the number of ill and the mortality rate?

A I do not have anything else to add now.

Q Did executions take place in Hersbruck?

A Yes.

Q I mean when you were there?

A Two.

Q What kind of cases were involved?

A Escape cases. When a prisoner escaped from the camp and his escape was successful then he was stricken off the camp records. If they committed any criminal action while they were escaping they were arrested either by the regular police or the militia and turned ov er to the Gestapo in Nuranberg, and the corresponding police station or the Gestapo respectively would conduct their own interrogation in regard to the crime committed.

Q As a camp commander in Hersbruck, what did you have to do with the investigation of such cases?

A With the prisoners, nothing.

Q And with the investigation?

A Nothing either.

Q With the passing of judgment on them?

A Nothing there either.

Q What did you have to do with the whole affair then?

A The only thing I had to do was if the prisoners had been condemned they were delivered into the camp for execution, so that the only part that the camp played in the picture was it was the execution spot.

Q Please describe how people went about this in detail, for instance, starting with the time when you were told that an execution was to take place?

A At a certain period of time this Emmert, this Gestapo official from Nuremberg came to Mersbruck. I have attempted to get Emmert here to this trial. They found him in Nuremberg and I found out that in May of last year, 1945, he committed suicide. Emmert came at some time or other and would write the necessary personal papers of the prisoners who were with him. At the same time he also brought the verdict in regard to the execution, which was already drawn up. This verdict or this document had been completed by the national security office, and I believe that the signature was either Mueller's or Baltenbrunner's.

Q Was this verdict read aloud?

A Yes, the verdict was read aloud and translated into the language of the corresponding prisoners.

Q Who was present at the execution?

A The following were present at the executions The doctor, Dr. Ehrlich, and this Gestapo official Emmert, already named, and the roll call leader, and besides that prisoners who happened to be in the camp at the time. I didn't obey the order which was in camp that whenever an execution took place all the prisoners must be present and must fall in, and I just called t ose prisoners that happened to be around at the time.

(Schwarz - Direct)

Q What happened to prisoners who were captured when escaping but who did not commit any criminal action?

A If a prisoner was caught escaping and didn't commit any criminal action then he would be taken back to camp, taken up again in the camp books, and would have to wear a red dot insignia on his clothing to show that he had escaped, and they would have to work inside the camp from then on so that they wouldn't get a second chance to escape.

Q Were they punished?

A No other punishment followed.

Q Do you have anything else to say about executions?

A No.

Q Well, tell us now about the evacuation of the camp. Were there orders on about that?

A There was an order from the very beginning which directed the evacuation of the camp. This was a secret order with the date, 28 of January 1945, which had been drawn up by Commandant Roerel, and in that document the following was said: When the enemy troops approach the outside of camps you have to abandon these camps and have to reach the nearest mother camp one way or another. There wasn't anything else in this order.

Q When did you get the order that you should actually evacuate the camp?

A When the war situation got so that we had to reckon with the fact that enemy troops would be approaching, I assured myself whether this written order that I mentioned still had validity. I called up the commandant in Flossenburg as well as the SS leader in Nurnberg and asked for an order in connection with the evacuation.

Fless.

Q Did you get it?

A Yes, they told me that this written order still had the same validity that it ever had.

Q What kind of preparation did you make to evacuate the camp?

A It took some period of time to make the preparations for the evacuation. We still had an amount of food and stock in supply so I thought about putting up the food warehouse underway but I did not have the necessary vehicles for that. It may sound improbable when I say now that this camp didn't have any vehicles at its disposal all the time, and it should be clear without saying anything more about it that this fact had a very detrimental effect at the time of the evacuation.

Q Mr. Schwarz, please do not go into any more detail about these facts, but tell us about the organization that took place before this evacuation started.

A As soon as it was effected that the camp would have to be evacuated I called in all the officials who had to be used in the evacuation march, who would play some role there, and gave them my directions. For instance, the man who had control of the food received his own orders; and I picked out the work commitment officer for a special duty -- his duty was to pick out the places where we would make a break underway. It has already been described here in detail, what orders I gave. And then I brought up the individual leaders of the marching blocks and I showed them the way the march was supposed to take. I must mention here that the distance between Dachau and Mersbruck is about 175 kilometers. I cut up this stretch in various intervals and marched each interval as one day's march. But still when

I picked out the route I wasn't sure what would be taken from one point to another because that depended on the way the march was running.

Q What was supposed to happen to the sick people and people who couldn't continue the march?

A The people who were sick in the camp or couldn't make the march in the very beginning before we started were sent by rail to Dachau, and those people that became sick or couldn't continue to march on the way would be loaded on to wagons, brought to the nearest communities, and turned over to the hospitals there. This order was given so clearly that it couldn't have been misunderstood.

Q Mr. Schwarz, I would not go into any more detail about this evacuation march. Proof has already been brought about that. I want to ask you now whether or not the order was carried out or not?

A I myself took care of the entire march up to Dachau and I didn't have an automobile so that I could move around quickly, but I had to make the march with a bicycle. This means of transportation will in itself prove that I had connection with the individual marching blocks. I saw the individual marching columns every day and convinced myself of the condition of the people who were in them, and I determined that my order was being carried out by all the marching columns.

Q Were the sick people actually loaded on to wagons and turned over then?

A Yes, I saw that myself and various towns have already been mentioned where sick people were left behind; so that I believe that I did everything in this regard which was humanly possible.

(Schwarz - Direct)

Q Were any prisoners shot to death during the evacuation march?

A I didn't find out anything about that.

Q Did you hear anything about that?

A No, I didn't hear anything about it either.

Q Please tell us about the air raid attack, but do not go into any detail?

A I observed the air raid from a considerable distance and then went immediately to the place where it occurred. When I got there the prisoner doctors and the company guards were already taking care of the wounded, and Dr. Ehrlich also came to the spot because during the whole march he was accompanying me, and he drove on his bicycle into the nearest town which was one kilometer away which is called Abensberg,

and he took a look around there in the hospital to see whether the prisoners could be cared for there--the wounded ones--and came back and said that the wounded could be taken over there, and in the meantime I had taken a look around to see whether I could get some horses and wagons, and the wounded people were loaded onto these vehicles after they had received first aid, and brought into the village.

Q Did each marching block have doctors of its own?

A Yes, the doctors which had been at the disposal of the camp would split up with marching columns so that there were two doctors with every marching block.

Q Did anything change about your evacuation orders during the march?

A No, nothing changed.

Q Did anything else happen, or do you have anything else to say about the evacuation march?

(Schwarz - Direct)

A No.

Q I want to touch upon several points now which have been brought up in the testimony. Who was your Capeldest?

A Martin Humm.

Q Do you remember that a witness said that Humm was a brutal man?

A Yes, I remember that. That wasn't in response to the question of the prosecutor.

Q What do you have to say about Humm?

A If a witness appears here and makes such a judgment about Humm then he must know about incidents that I don't know about, but at the same time I remember one case. A prisoner was concerned there, a report of this prisoner who came to me and claimed that Humm had hit him with a stick.

Q What did you do about that?

A I interrogated the prisoner and also Humm and I couldn't harmonize their two testimonies at all. Each one asserted the opposite and I couldn't come to any result. At any rate that was enough for me to reprimand Humm and to ask for his release from his duties in Flossenburg.

Q What happened to the prisoner who received the beating?

A Well, he got his beating.

Q Why did you not release Humm yourself, of your own jurisdiction?

A I didn't have any authority to do that. Humm came from Flossenburg just like all capeldests. Like all capeldests he had been put to work there from Flossenburg and for that reason I couldn't relieve him of his duties. I could only ask that he be fired, which I did.

Q Did he actually get fired?

A A short time after this incident occurred an inquiry arrived from Flossenburg and by looking at that I had to assume that Nunn would have soon been transferred back to Flossenburg, but that didn't happen and I didn't hear anything also after this inquiry had arrived. But later on, of course, I did call Commandant Koegel's attention to that but he didn't look into the matter any more and nothing also came from Flossenburg.

Q Did other prisoners complain to you about Nunn?

A No.

Q The testimony here also has mentioned the fact that Russians were supposed to have been beaten in the clerk's office because of the work detail Siemens. What do you have to say about that?

A The witness Olchowski has already gone into this fact in his testimony. This witness appears to be in error there. He also quoted my time wrong when I first took my duties over in Hersbruck. He put the time I took over in Hersbruck in October whereas I actually took over my duties in December.

Q When did the beating of the Russians take place, or supposed to have taken place?

A This absolutely took place when Forster took charge there. Witnesses have already said that.

DR. WACKER: For the time being I have no more questions.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place.)

PRESIDENT: The court will come to order. Cross examination? Colonel Denson.

(Schwarz - Direct)

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Schwarz, you wore the SS uniform and carried the title of an SS Captain, did you not, through 1944 until the end of April 1945?

A In the last period of time I did carry the SS uniform and the guards who were under me looked upon me as a Captain in the SS, and in Hersbruck I constantly wore the SS uniform.

Q And you also signed your name as Schwarz, Captain of the SS, did you not?

A My signature was Schwarz, Company Leader and Commando Leader.

Q Can you tell the court that you never signed any official documents by the signature of Schwarz, Captain of the SS?

A The way I signed my name was that I signed my name and then with the typewriter the words "Company Leader" and "Commando Leader" would be typed, and beside that there was the remark "Captain of the SS".

Q From the period of July 1944 up until the time that you went to Hersbruck in December 1944 you were paid by the SS paymaster from Dachau, were you not?

A No, you have to differentiate between two matters. First of all we would talk about war payment. That is the monthly salary of an officer in the Wehrmacht. This was paid by a Wehrmacht command post in Kamptem. And then we got our service money which every man of the Wehrmacht and SS drew in periods of time, and this money for service was paid by the corresponding paymaster in the company where the service was being done.

DEFENSE COUNSEL: May it please the court, may I take the accused wolf out for interrogation?

PRESIDENT: You may proceed.

QUESTIONS BY PROSECUTION:

Q Do I understand your testimony to be that you never received payment from the SS pay office in Dachau during the period of July 1944 to the middle of December 1944?

A Not directly, no. The paymaster of the company to which I belonged would draw his money from Dachau or wherever it was--I am not sure--and I would receive my money from him. He would pay it to me.

Q Approximately how much was that per month?

A That was 36 marks every ten days, about 108 marks a month.

Q And how much did you receive as a member of the Wehrmacht per month?

A I beg the prosecutor to make this question more precise.

Q How much money did you receive as a so called Captain in the Wehrmacht per month?

A I have already made a difference in regard to pay which I received as war money and pay which I received from being in service. A Captain in the Wehrmacht got 480 marks a month as war payment. And the service money was the same for all ranks--it didn't matter what--and it didn't matter whether you were in the Wehrmacht or the SS or the Air Force.

Q So you received a total of 588 marks a month, is that correct?

A Yes.

Q Now when you got to Mersbruck, is it not a fact that you were paid by the SS paymaster there?

A As I understand the question, the war payment continued to go on. My monthly payment--my Wehrmacht payment--was sent to my wife

every month. That proceeded automatically. But after I changed my location, the service money was paid to me there by the paymaster in the company.

Q And he was an SS man, was he not?

A Yes, like all members of the company.

Q When was it that you directed that this survey be made with respect to the high mortality rate in Hersbruck?

A Shortly after I arrived in Hersbruck.

Q Well, approximately what date was that?

A Approximately the 18th of December 1944.

Q When did you get this report back?

A When the basic documents were prepared in order to draw up this graph probably would be around the end of December 1944.

Q Was it later than that?

A It could have occurred shortly after the beginning of January 1945, because if I remember correctly these graphs included material up to the end of December.

Q Now, approximately how many instances were there when prisoners were officially punished at your command?

A Through me? Punished by me?

Q At your command?

A In five (5) cases.

Q There were no more than five official punishments then the whole time you were in Hersbruck, is that correct?

A Yes.

Q Now, there were actually no new buildings which were completed from the time you first got to Hersbruck until the time you left, were there?

A When I first arrived in Hersbruck there were a number of constructions under way. Some of these building projects, but not all of them, were brought into such condition that they were usable. I am thinking now of a second laundry barracks and I am thinking of a warehouse for material.

Q Well, you had a total of 17 blocks in which prisoners lived, did you not?

A Yes.

Q And there were 17 when you got there and there were 17 when you left there, is that not true?

A That's right.

Q Of those 17 barracks three were used as a hospital, were they not?

A When I got there?

Q When you left there.

A When I got there, two were being used as hospital quarters and one as a convalescent barracks. When I left, three were being used as a hospital, so making four.

Q But those were not new barracks, were they?

A No, that's right. The number of prisoners did not increase and we could use barracks where people lived for these purposes.

Q Now when was it that you started the paving of the roll call square?

A When I arrived there, there was just a narrow street that was paved which led to the roll call square, and when I went away the entire roll call square was paved firmly with rock.

Q When was it that you started this improvement in the roll call square?

A I had a lot of difficulties to overcome when I started with that work. First of all we had to wait for favorable weather conditions. There was a rather severe frost in the months of December 1944 and January 1945 so that, of course, the ground was frozen so solidly that you couldn't work at it, and we couldn't begin the work in roll call square until the weather allowed it; and then the work proceeded rather slowly because we were dependent upon the arrival of the necessary materials.

Q It was approximately the 1st of March before you began to work on that roll call square, isn't that so?

A No. I know that at the end of January or the beginning of February a big change in the weather took place, and we could begin with the work there as soon as the ground had dried up somewhat.

Q But you did not begin with that work until after the transport from Gross Rosen arrived, isn't that so?

A No.

Q Are you sure about that?

A Yes, people were always working on this square, sometimes more intensively than other times. As I already said we had to depend upon the arrival of the necessary material.

Q Well, at the time of the arrival of the Gross Rosen transport no material change had been made in the roll call place, isn't that correct?

A I said that people were always working at the roll call square, and in the course of time the roll call square was completely paved, so that changes took place in the roll call square after this transport arrived from Gross Rosen.

(Schwarz - Cross)

Q At the time that the Gross Rosen transport came, the roll call place was still muddy, was it not?

A Yes, that couldn't be any different because, as I already said, the work at the roll call square had just begun.then.

Q How many transports came in from the east while you were there as the commander in camp?

A When I was there, the transport arrived from Gross Rosen. I can't think of any other.

Q So that 2,500 was approximately the only prisoners that you received from the east, is that not correct?

A When I was there, yes, that's right. But I do know that before my time transports arrived either directly from the east or via another camp, and there were people who fell sick very easily, and these people were being put upon me--put upon my shoulders.

Q When was it that you had the first notice that the transport from Gross Rosen would arrive at your camp?

A Just shortly before the transport arrived I got word of it from the station, Wieden.

Q How long was it between the time that you got that word and the arrival of the transport?

A There was just a few hours, and we just talked about the rail connections for transporting these people from Gross Rosen to Hersbruck. As I remember, it was about six hours.

Q When these people arrived at Hersbruck they were put into the gymnasium, were they not?

A No. This place you are talking about is the so called gymnasium hall and this gymnasium had a second ceiling, and was cut off, and part of this was used as quarters. There was a ceiling between

(Schwarz - Cross)

the ground floor and the first floor, and there were beds up there.

MR. TACHER: I wonder if that was correctly translated, when he said there were beds on the ground floor and on the first ceiling.

PROSECUTION: May it please the court, I could like to have the doctor object to the translation, but I object to the doctor telling the witness what to say.

MR. TACHER: I beg your pardon.

PRESIDENT: Doctor, in making your objections simply state that you object to the translation, then if it is not clear the court will give you an opportunity to amplify your objection. Now the court will give the interpreter a chance to check that particular point to make sure that the translation is as indicated by the witness.

(hereupon the interpreter elicited the following response from the witness):

THE WITNESS: It was a big gymnasium. The floor of the gymnasium was a board floor and on this floor there was a row of beds, and there was a second floor put in at an altitude about three meters above the other one.

PRESIDENT: All right. That is enough.

QUESTIONS BY PROSECUTION:

Q New Schwarz, when this transport came in from Gross Rosen, they were put in this hall, were they not?

A No, it would be that some people were brought into this gymnasium for quarters but other people were put around under various blocks for quarters.

Q In other words as soon as they came in then they were distributed among various blocks for quarters, is that correct?

Schwarz - Cross)

A The people were put where there was room for them.

Q Now, these people that were put into the hall that you have described were put in there with only one blanket, is that not so?

A No, they had two blankets.

Q Are you sure about that?

A Yes.

Q Did you go there and inspect it?

A Yes, there were always enough blankets there. We never had a blanket shortage.

Q There were always enough blankets--for how many blankets to a man?

A Two blankets.

Q Now, the second day after this transport arrived, they were distributed to work, were they not?

A No, the people who arrived in this transport didn't go to work until three days after their arrival. This period of time was necessary so they could write out the personal data of the people in camp; besides was the fact that their physical condition wouldn't allow them to work immediately.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1500 hours.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Pinter who are absent on business of the prosecution, all of the personnel of the defense are present with the exception of Col. Wilson, Mr. O'Connor, Mr. Hall and Dr. Angelhorn who are absent on business of the accused, all of the accused are present with the exception of Oswalt and Losch who are ill and Wolf who is conferring with counsel. The interests of those named accused who are absent will be taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Continuation of cross-examination, Mr. Denson.

LUDWIG SCHWARZ, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS-EXAMINATION (Continued)

QUESTIONS BY PROSECUTION:

Q Schwarz, when did you start the plans for the construction of this new hospital?

A About the middle of March 1945.

Q When was it that you stopped these mass roll calls?

A Immediately upon my taking command of the camp.

Q You mean to tell this court that during the time that the transport from Gross Rosen first came to Hersbruck there were no mass roll calls?

A That's right.

Q You're sure about that?

A Yes.

Q You appointed the blockaldests to their positions did you not?

A The appointment was confirmed by me.

Q And you also appointed the work detail leaders did you not?

A Might I ask a question in response to that?

Q Well, will you answer that question if you can?

A I can't answer this question just like that because I have to get it clarified. Are you referring to SS or to capos?

Q First I refer to the SS.

A They were assigned by me.

Q And the capos were also confirmed by you were they not?

A Yes.

Q And isn't it a fact that after the Gross Rosen transport had arrived you relieved those men who had been acting as capos when they came down from Gross Rosen?

A These men had not been used as capos in Hersbruck yet.

Q Do you mean to tell this court that from the transport that came in from Gross Rosen those men who had acted as capos in Gross Rosen were no longer permitted to act as capos in Hersbruck at any time?

A Well, that was quite obvious because I didn't even know these people.

Q Well, they came down there to you some of them designated as capos did they not?

A They told me they had been capos in Gross Rosen but that certainly is no reason for me to appoint a man whom I don't know at all as a capo.

Q And in like manner there wasn't any reason for you to retain Hunn as a campaldest either was there?

A That doesn't have anything to do with the transport from Gross Rosen.

Q You answer my question please.

A I suggested the relief of Huma and had no influence upon his being retained in his position.

Q Tell the court then please, Schwarz, how many other positions were held by prisoners over which you exercised no control.

A I had control over all the positions of prisoners. I just said that I had no influence on the position of the campeldest.

Q Tell the court then how many other positions were held by prisoners over which you exercised no influence.

A I could assign men to all the other positions with prisoners with the exception of this one detail Nuernberg in which case the chief capo Bongartz had been assigned by the 1st Lt. Schill.

Q In other words Bongartz' position and Huma's position were the only two over which you could exercize no influence, is that correct?

A Yes.

Q And who was it that appointed Bongartz to that position

A This 1st Lt. Schill.

Q Bongartz was a capo in Gross Rosen was he not?

A I don't know.

Q You never ascertained that fact

A Not at that time. I only know that now.

Q What was Schill's connection with Hersbruck?

A Schill had no connection whatever with Her bruck.

Q And the only authority he exercized was that in conjunction with Bongartz on an outside detail, is that not correct?

A Schill had the jurisdiction over this outside detail which worked in ~~Luxemberg~~ Nuernberg.

Were there any other positions in the internal administration of the camp which were held by prisoners over which you exercised no influence

A None with the exception of those mentioned.

Well, Hamm was the only one with respect to the internal administration of the camp, is that not true?

A Yes.

Isn't it a fact, Commra, that you had the authority to appoint and remove any capo, any blockalteste, any campeldest, or any detail leader, work detail leader, in Hersbruck?

A Yes.

On the 5th day of April is it not a fact that there were 1,200 sick prisoners that were sent on a transport by rail to Dachau?

A That is correct. I don't know whether the figures are exactly correct but it might be approximately right.

And at that time you had how many prisoners in the camp exclusive of those that were sent to Dachau?

A There might have been about 4,000 at that time.

That was the greatest number of prisoners that you had in Hersbruck

A Might I ask another question here

Just answer my question please.

A Your last question seems unclear to me at this point. Do you mean including the transport or not including the transport

I stated exclusive of the transport.

A There were 2,800 in that case.

(Schwarz - Cross)

Q What was the greatest number of prisoners that you had in Hersbruck during your period of office as camp commander?

A That must have been about 5,300.

Q How many prisoners did you evacuate to Flossenburg who were sick?

A There was one transport, single transport, that went to Flossenburg. That was shortly after my arrival about Christmas time and that included 800 prisoners.

Q So that after Christmas time you had approximately 4,000 prisoners in the camp, is that not correct?

A That might be correct.

Q And you received 2,500 on about the early part of February 1945 from Gross Rosen, is that not correct?

A Yes.

Q And the greatest number that you had in the camp was immediately after the arrival of this transport from Gross Rosen was it not?

A Yes.

Q Tell the court then approximately how many prisoners died between the first of January and the arrival of this transport from Gross Rosen?

A If I assume that the date of the arrival of the Gross Rosen transport is February 15 then about 700 prisoners died during that period.

Q You had about 4,000 in there on the first day of January did you not?

A Yes.

And between that time and the arrival of the transport from Gross Rosen you only had 2,600 hundred, is that not correct?

(Schwarz - Cross)

A No. This figure 2,800 refers to the number of prisoners that marched out of camp at the time of evacuation.

Q Well, the greatest number that you had in there was 5,300 and that was immediately after the arrival of the transport from Gross Rosen?

A Yes.

Q And you got 2,500 from Gross Rosen so that leaves 2,800 does it not?

A Yes.

Q So that between January 1, 1945 and the arrival of the transport from Gross Rosen you had 1,200 deaths, is that not so?

A According to this way of calculating it, yes.

Q Do you know of any other way of calculating it?

A No.

Q You stated that it was necessary to maintain discipline by beating, is that not correct?

A I didn't mean to say that.

Q Well, did you say that?

A I said indirectly that I had ordered punishments in order to punish justly such prisoners who had violated regulations or had violated discipline.

Q You also stated, did you not, that you found it was necessary to permit the capos and the blockleaders to beat in order to maintain discipline, is that not so?

A No, that wasn't to be understood that way.

The capos did beat did they not?

A No, what I said was that any capo who wished to make his power felt had to punish a prisoner occasionally for violating the regulations

[illegible] and order by [illegible]. [illegible] to say, however, that [illegible] or the blockheads [illegible] that, that [illegible] is something [illegible] proceed on their own if they wished to succeed in their [illegible].

[illegible] all, you knew it [illegible] point [illegible], did you not?

I knew that [illegible] were doing this, they had no other [illegible] within their job.

[illegible] part of [illegible] it not

No, I [illegible] excesses from taking place and I succeeded in doing that because no criminal was [illegible] related.

Didn't you know that [illegible] beat [illegible] prisoners a [illegible]

[illegible] now. [illegible] time I didn't know it because the [illegible] detail was not under my supervision at all and in spite of the fact that you might think so the reason that I appointed a block-[illegible] was that he [illegible] something [illegible] that he did [illegible] and conscientious, but part of that was certainly not my knowledge that he beat anyone.

You made no effort to find out whether they did or did not beat, is that not so, [illegible]?

[illegible] Though [illegible] questions [illegible] of the prisoners [illegible] convinced myself that [illegible] never happened that any prisoner [illegible] concluded [illegible] having received a [illegible] the reason for that probably was [illegible] and he [illegible] this.

[illegible] also [illegible] that he [illegible] if he [illegible] to you that he [illegible] be [illegible]

[illegible] and.

[illegible]

[illegible] cleanliness and order by a supervisor. [illegible] had to say, however, that [illegible] it as the blockmasters [illegible], but only in so far as the blockmasters [illegible] proceed on their own if they chose to proceed in their times.

Well, you knew it was going on, did you not?

I knew that people were doing this, they had no other way of doing their jobs.

But was it [illegible] the [illegible] not?

No, I simply [illegible] excesses from taking place and I succeeded in doing that because no prisoner was mistreated.

Didn't you know that [illegible] beat [illegible] or [illegible] prisoners a [illegible]

It's not he did now. [illegible] time I didn't know it because the [illegible] detail was not under my supervision at all and in spite of the fact that you might think so the reason that I appointed a blockmaster was that he was [illegible] something but that he did this [illegible] unconscientiously but part of that was certainly not my knowledge that he beat anyone.

You made no effort to find out whether they did or did not beat, in that not so, [illegible]

Through inspections [illegible] and through the time [illegible] of [illegible] and [illegible] it was I convinced myself that [illegible] orders were [illegible] never happened that any prisoner [illegible] was confined [illegible] at hard labor received a slap in the [illegible] for that probably was [illegible] that he [illegible] would not be observed [illegible].

[illegible] also [illegible] that [illegible] if he [illegible] to you that he [illegible] probably be [illegible]

[illegible]

[illegible] - [illegible]

Q Well, you heard one of your own witnesses testify here, did you not, that it was a matter of common knowledge that Hamm was a very brutal man?

A I already said that he based his statement upon knowledge which was not at my disposal at that time.

Q Well, you testified that you interrogated the prisoners, did you not?

A Yes.

And your witness testified that it was a matter of common knowledge. In other words, everybody in the camp knew about it but you, is that not so?

A Well, if he says that everybody knew it except me then it's true but I had no way of finding out. I didn't see it myself and the prisoners didn't tell me.

Q No he didn't say everybody else knew it but you, he said everybody knew it, but you say you didn't know it, is that correct?

A This knowledge was apparently not common knowledge or else I would have had to find out about it.

Q Well, to have your witnesses say it was is that not so?

A That was their private opinion.

Q Schwarz, isn't it a fact that this hospital that was set up in Hersbruck was divided into several sections, is that not so?

A Yes.

There was one section for the treatment of contagious diseases, is that not so?

A Yes, that was one section.

Q How frequently did you visit the hospital?

A I visited the hospital about once every two or three days.

Q And they had a surgical section there did they not?

A Yes.

Q And they also had a special section there that treated only broken jaws, did they not?

A No.

Are you certain about that?

A Yes.

Q Did you have any French doctors there who were surgeons — bone men?

A Yes.

Q And you tell this court that one section of that hospital under the supervision of a Frenchman did not specialize in the treatment of broken jaws?

A That was never the case.

Now, this detail that dug the tunnel that you were talking about, that was the detail that worked over near Pommelsbrunn and Happurg, is that not true?

A The main construction site was in Happurg and there was a stretch of rails built between Happurg and Pommelsbrunn in order to make it easier to reach that site.

Q And at Happurg how many prisoners did you have working there on that detail?

A A total of 1,300 prisoners were employed in this tunnel building project in three shifts.

Q And of those three shifts, the first one would leave in the morning at 4:30, would it not?

A No, each shift has a working time of eight hours. The first shift — anyway one shift — it makes no difference what number applied to it — moved out at 4:30 and their working hours were from

(Schwarz - Cross)

11 until 7 p.m. The second shift relieved the first one from 7 until 3 o'clock, and the entire shift again worked from 3 o'clock until 11 o'clock.

Q Now you had nothing to do with the hours of labor did you?

A No.

Didn't you know, as a matter of fact, by virtue of a decree that was put out in Berlin in the number of [illegible] the minimum number of many that a prisoner might work [illegible].

A I know nothing of this regulation. In this case it wasn't applicable as the women were supervised by the [illegible] leadership staff that determined the hours to be worked and the number of shifts to be worked.

Q Is it not a fact, Scherz, that one shift left at 5 o'clock in the morning and returned at 5 o'clock in the afternoon?

A That was the rest of the prisoners who were from different places of work and who did their regular day-time work.

Q All right, my questions are being confined now solely to the detail that worked over at Leonhardbrunn and Happurg. Is it not a fact that one shift left at 5 o'clock in the morning and returned at 5 o'clock in the afternoon?

A That was not a shift, Mr. Prosecutor. All the shifts I understand worked under the common system that one shift relieves the other and these workers did not work on any shift but worked on different schedules, and their work during day-time and moved out for work in the morning and came back in the evening.

Q Just answer my question please, Scherz. Is it not a fact that another shift left at 8:30 p.m. and came back at 1:30 a.m.?

A That's right. There was one shift.

And isn't it a fact, Scherz, that another shift left at 8:30 p.m. and came back at 4:30 a.m. the next morning?

A The time of day is somewhat variable. It depended on the cranes, but it might have been about like this.

How many prisoners were shot trying to escape during the time that you were commanding officer at Hersbruck?

A None to my knowledge.

Q If any had been shot you would have known about it, would you have not?

A Yes.

Q And you don't recall an instance toward the end where a rottenführer shot a young Russian just before the Americans came to the camp?

A No I don't know about that.

Q Is it a fact that you never had a formation of prisoners at the executions that were held in Hersbruck during the time that you were the commanding officer

A There were no formations for executions at which all prisoners in the camp had to be present. I have already stated that during executions the prisoners who happened to be in the camp at that time had to be present.

Q All right, and those prisoners were drawn up in formation around the execution place were they not?

A I remember one particular occasion when the prisoners were standing on the boards because they couldn't step down into the mud and for that reason alone any regular formation is out of the question.

Q Isn't it a fact that after the prisoner was hanged they had to march by the gibbet?

A That never occurred.

(Schwarz - Gross)

Q During the entire time you were in Hersbruck?

A Yes.

Q Isn't it a fact that the prisoner was brought out to the gibbet and he was placed up on a stool and the rope was put around his neck and the stool was kicked out from under him, is that not correct?

A Yes that was the method of execution.

Q And that noose was put around his neck by either the camp-elder or one of the rapport leaders, is that not true?

A No, some Croatian performed these executions.

Q He was a prisoner, wasn't he.

A Yes.

Q And you gave the command to kick the stool out from under the prisoner did you not?

A Yes.

Q How much food was kept on storage there in Hersbruck?

A Requisition slips would be issued by the food office for the the whole rationing period. With these requisition slips purchases would be made with the proper firms and if these firms had sufficient stock on hand the amount of food contained on these requisition slips would be taken in the camp.

Q Well, you always had these requisition slips filled did you not?

A Mostly, but in some cases it happened that these firms would not be able to comply with the requisition at the moment because of some transportation difficulties or delivery difficulties from the manufacturer but a case where actual shortage would come up never occurred. Some other kind of foodstuff would always be found to fill the gap.

Thus we had enough potatoes in storage to suffice until the 1st of July 1945, which would have sufficed, that is.

Q And you didn't distribute any of these potatoes to these starving prisoners?

A Well, excuse me, what was I supposed to do with the months of May, June and July if I had issued those?

Q You evacuated the camp in April didn't you?

A At the time we stored the potatoes I didn't know the camp was going to be evacuated.

Q Well, when did you store them, Schwarz?

A They were stored in the fall, fall of 1944.

Q You mean you had potatoes then from the fall of 1944 that would have lasted up until July and you had all these prisoners there who were emaciated and you didn't serve that food?

A Well, I couldn't possibly issue food if I had no way of knowing whether I would have anything to replace this store of food later and since it is well known anyway that May, June and July are months in which potatoes are short and I would have had to risk the possibility had I issued these potatoes of being confronted with no food at all then.

Q But you did know at that time that the food you were giving those prisoners was insufficient for the work that they were being required to perform, is that not so?

A I did say it was insufficient but, after all, I had to conform to regulations too. According to prescribed rations I would be issued food and if I was to conduct my food storage policy in a rational manner I couldn't issue food which I would not be able to replace later since I had no way of knowing whether I would be able to replace these

at all. For had I done so there would have come a time in which I would not have had anything at all.

Q Well, you didn't know whether you were going to be there in June and July or not did you?

A I did not know that but that was no occasion for me to issue everything I had on hand in rations in January or February.

Q But you did know in January and February that these prisoners were on a starvation diet and their ultimate end was death?

A No that was not the way it was. No prisoners starved.

Q You stated that the food was insufficient for the type of work that they were doing and the mortality rate just shown was 1,200 people here in a little over one month. You knew that did you not?

A Yes but I did not intend to say that the food was so short that prisoners died of lack of it. It was merely insufficient as compared to the work required.

Q You had the direct supervision over these prisoners did you not there at Hersbruck?

A Yes.

Q And how many guards did you have there under you?

A 500.

Schwarz, how many doctors, both SS and prisoners, did you have there on the 1st of April of 1945?

A On the 1st of April that was the time when Dr. Geiger had just left, that is Dr. Ehrlich was the only one left.

Q There was one SS man, is that right?

A One air corps doctor.

Q How many prisoner doctors did you have?

A There were eight chief prisoner physicians and in addition

there were one or two prisoner doctors in every hospital block but they did not conduct a station there, they were merely there in addition.

Q Well then that was approximately how many doctors there?

A There might have been about 15 prisoner doctors all in all.

Q How did you assign these doctors to the marching columns?

A There were two with every marching column which I put in charge there that is.

Q Well there were two prisoner doctors in charge of each marching block and how many assisted these two that were in charge?

A There were some nurses with them too and I also sent some doctors on this sick transport to Dachau already.

Q How many did you send on that transport?

A Five.

Q Were any provisions sent on this transport, any food, that left on the 5th of April for Dachau?

A Yes, for two days.

Q Now when did heat first come in the barracks?

A The barracks were equipped with stoves, that is, there were three big stoves in every barracks.

Q When did you first give them any fuel to burn in those stoves?

A That was before my time already, that is, fuel was already there when I arrived and more was obtained as the case arose.

Q And you tell this court that each one of those 17 barracks were heated by three stoves, is that correct?

A Yes.

Q And fuel was consumed in those stoves to produce heat during the entire time that you were there?

A You will have to take into account the fact, of course, that this was the sixth year of the war and that there was considerable difficulty in obtaining fuel, and at that time, as you know, the areas in which coal was produced were already in the hands of the enemy so that you had to live practically only from what was on hand. The great mistake of my predecessor was that he did not establish any store of fuel at the time at which it might perhaps still have been possible.

Q Just answer my question please, Schwarz.

A Yes, give it again.

PROSECUTION: Give it to him.

(The question was read by the reporter.)

A Unfortunately conditions were not such to make it possible to heat the stoves at all times. The fuel notices for that were not available.

Q And isn't it a fact, Schwarz, that these prisoners would work out in the wet and they would come back in the barracks and they would have to dry their clothes on their bodies?

A No, it was always seen to that at least at those times when the prisoners would come in with wet clothes heat would be on so that the prisoners would have an opportunity to dry these clothes.

Q And how frequently was that, Schwarz?

A Constantly.

Then you had heat on constantly then, is that correct?

A No, I said there was not sufficient fuel around to have heat all day long but that particularly at the hour at which the prisoners would come in there would be some heat so that the prisoners could dry their clothes and that the heat would be kept up during evening hours which the prisoners would spend in the barracks so that they would be able to dry their clothes then.

Q Did you ever visit barracks No. 9?

A Yes.

Q How many men slept in one bed in that barracks?

A In Hersoruck every prisoner had his own bed.

Q And that includes barracks No. 9?

A Yes.

Q And each prisoner had two blankets in barracks No. 9 also?

A I already said that there was sufficient blankets around and in barracks 9 also every prisoner would have his two blankets.

Q And every prisoner in barracks No. 9 had shoes?

A Yes.

Q And an overcoat?

A Yes.

Q Did you ever visit the work place over at Happurg?

A Of course. That was one of my duties, to go out to the work details.

Q And you visited the detail that worked in the tunnel there, is that correct?

A Yes.

Q And you appointed the detail leader that had charge of that detail did you not, that worked in the tunnel?

A Yes.

Q And is it not a fact thathe was known as the terror of the tunnel?

A Yes I know that name but that name came from the guards and not from the prisoners because that man was given his job in order to inspect the guards and not the prisoners.

Q The detail leader was given his job to inspect the guards and not the prisoners?

A This man wasn't the detail leader. The detail leaders were those non-coms who were in charge of the various shifts and this man had nothing to say, no orders to give, to the detail leaders. This man had special orders from me to inspect and control the guards. He had nothing to do with the work detail.

Q What was his name, Schwarz?

A Gratzek.

Q What rank did he hold?

A Master Sergeant.

Q How many men died on that detail on the job on the average a day?

A At that detail during work?

Q Yes.

A None.

Q You're absolutely positive about that?

A Yes.

Q And you are just as positive about that as you are about all the rest of your testimony, is that correct?

A What's that got to do with the rest of my testimony.

Q I just want to know if you're just as certain about the fact that no prisoner died on that work detail in the tunnel as you are about the rest of your testimony?

A Yes.

Q How many prisoners would be sent to the hospital from that detail each day?

A I can't give you an exact number.

Q What is your best judgment, Schwarz?

A The number of prisoners sent to the hospital from the tunnel construction detail was comparatively small because these prisoners were sheltered from the elements of the weather. They were able to work under a roof and not in the open air so that they were not subject to bad weather conditions. In my opinion from 10 to 12 might have been admitted to the hospital out of every shift, 10 or 12 from out of about 600 prisoners.

Q Isn't it a fact, Schwarz, that one of the contributing factors to the high mortality rate that you had there in Hersbruck was this detail over at Happurg?

A I shouldn't say so. This tunnel construction detail did not provide as many sick men as did some of the other details who had to work in the open air and were there under the influence of the weather.

Q Didn't you discuss this matter with your witness, Lenz?

A No.

Q You never had a discussion with Lenz as to the conclusions that were reached concerning the causes of the high mortality rate in Hersbruck?

A Yes I did.

Q And you never discussed that one factor?

A Well, this factor, that is this detail, was one of the points which I considered in computing this mortality rate.

Q How long did a prisoner last on the average on this detail?

A There were some prisoners there who lasted until they changed. Of course there were also some prisoners who got sick and had to be relieved, That depended on the physical condition of the individual.

Q Isn't it a fact though, Schwarz, that the turn-over on this

detail was greater than on any other detail that you had under your command?

A No.

Q Was the detail that had the greatest turn-over?

A I already said that those details which worked in the open air had much greater casualty rate than the tunnel construction detail and I am particularly thinking of this one detail Fürmelsbrunn.

Q The rations that the SS got there in Herzbruck were the same as the rations that the SS were authorized to receive in the field, were they not?

A I don't know the rations of the SS in the field.

Q Well, do you know what the ration of the Wehrmacht was in the field?

A Yes.

Q Well, was the ration that the SS got in Herzbruck more or less than the ration that the Wehrmacht got in the field?

A We would have liked to have received field rations because the rations which were authorized in Herzbruck were considerably less than for the troops in action.

Q And was that governed by any authority issued by the economics office?

A The rations authorized the troops were not determined by the economics office but by the proper food office.

Q Well, who was the proper food office?

A That was the troop economics office in Herzbruck.

Q You mean that the local office in Herzbruck determined the ration that the SS guards received there on duty in the concentration camp, is that correct?

(Schwarz - Cross)

A No, by no means because this local office would receive its instructions from some central office in Berlin. These food officers could not arbitrarily decide that this troop would receive this ration, that troop that ration, the food rations described to the.

all, was there uniform rations for all troops on duty in concentration camps?

A These rations applied not to troops active in the concentration camps but to all troops stationed in the zone of the interior, that is the rations we received would be exactly the same as that for any unit in training in the barracks.

Now, how far had this typhus fever epidemic progressed before any steps were taken to arrest it?

A The typhoid epidemic did not spread at all but was diagnosed as such infection and steps were being taken to stop a spread of it. However, the fact is that in the case of typhus there is a certain latent period during which cases are hard to diagnose but as soon as they were diagnosed they were picked out and separated. I can't explain this to you in detail because I have no medical training but I can tell you without any difficulty that all steps necessary in order to prevent spread of the epidemic were taken.

Q When you were on this evacuation march did you go through Regensburg?

A No.

Q How close did you come to Regensburg?

A About 8 kilometers.

Did you go through Deidendorf?

A No.

Q Do you know where Dodendorf is located?

A No.

Q How do you know you didn't go through it?

A I have already heard the questions asked of the witnesses about this town over here and I affixed the line of march that we took in such a manner that a town by this name was not on our line of march or anywhere near it.

Q Is that the only reason why you are satisfied you didn't go through it?

A I know exactly the evacuation march from Hersbruck did not pass through any such town because I still recall very clearly the name of all of the towns that this train went through. I also have had an opportunity to look at the marching route here on the map and I can easily tell you all the towns we went through.

Q Well now I didn't ask about Deckendorf. That was the question that was propounded to the other witnesses. The town that I am asking you about now is Dodendorf, D-o-d-e-n-d-o-r-f.

A I hear that name for the first time today.

Q And you never went through there?

A No.

Q Isn't it a fact that you went in the vicinity of Dodendorf?

A No.

Q And you never gave an order near Dodendorf for the execution of 40 prisoners who were unable to continue the march?

A Never.

Q Did you go through a town by the name of Kornsdorf, K-o-r-n-d-o-r-f?

A No.

Q Well, Schwarz, didn't you know that it was wrong to keep those prisoners under the conditions that you found existing there at Ravensbruck during January and February of 1945?

A I don't understand the question.

PROSECUTION: Read it to him, please.

(The question was read by the reporter.)

A I can only repeat what the witness Lenz has already said here, the best thing to do would be to close up camp and send the prisoners home, but I had no authority to do that.

Q Well, why didn't you do that?

A I think I would feel better to say if I had done so but that was not within my rights. I didn't establish the concentration camps and I had no authority to dissolve any.

PROSECUTION: No further questions.

PRESIDENT: Court will adjourn until nine o'clock tomorrow morning.

(Thereupon the court adjourned at 1700 hours, 18 November, 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: Zweite Anklage: .....

Particulars: Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

Case No.

~~*Summary~~

~~*Intermediate Military Court~~

*General

Place DACHAU, GERMANY

Date 19 November 194 6

0905 - 1700 Hours

~~Members of Court:~~

WITNESSES:

LUDWIG SCHWARZ
JOSEF WURST
ERHARD WOLF
RUDOLF SCHMIDT

Pages 6854 - 6924 Incl.

Prosecutor

Defence Counsel

Interpreter

Reporter

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES — Versus — FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY — BEGINNING 12 JUNE 1946

19 November 1946 — 0905 - 1700 Hours — Pages 6854 - 6924 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
LUDWIG SCHRANZ			6854,6861	6857	6863
JOSEF WIRST	6865	6879	6881	6885	6886
ERNST WOLF	6887 6906	6909	6913	6918	6914
RUDOLF SCHMIDT	6921				

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
[illegible]-61	Certificate of Discharge	6879	6880
[illegible]-62	Report of Arrest	6881	6881
D-49	List of Persons Executed at Flossenburg	6904	6904
D-50	Chart	6904	6905
D-51	Diagram of Warehouse	6924	
D-51-A	English Translation of same	6924	

Ta-610-19 Nov
ehwl.
Pless

Camp Dachau, Germany
19 November 1946

MORNING SESSION

(Whereupon the court re-convened at 0905 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present; and all the accused are present, with the exception of Ziebusch, Mummfeldt, Oswalt, and Lusch, who are sick in hospital and whose interests are being taken care of by counsel. The interpreter and the reporter are also present.

If there are any spectators present in the court room, who expect to be called as witnesses in this case, they are requested to leave the court room.

PRESIDENT: Re-direct Dr. Becker.

LUDWIG SCHWARZ, an accused, resumed the stand and testified further through an interpreter as follows:

RE-DIRECT EXAMINATION CONTINUED

QUESTIONS BY DR. BECKER:

Q Mr. Schwarz, do you remember the last question which was asked of you yesterday?

A Yes.

Q Why did you not close the concentration camp at Hersbruck?

A I didn't have any influence in regard to closing the camp. The camp had been erected by other authority, and just as little as

I could do anything about erecting anything, just so little I could do about the closing of the camp.

Q Schwarz, you are being asked whether it was right to let the prisoners do the work they did with the food at their disposal. What have you to say about that?

A I can only say about that what I said yesterday. The food rations were designated for the prisoners during the war in Germany just like for any civilian people. The food rations were too little for the prisoners just the same as they were insufficient for all the German civilians who were at liberty. The prisoners were limited as to food just like the people outside. And then consideration must be given to the prisoners who suffered a certain depression brought on by their long arrest.

Q What do you have to say about the second point? That, despite this lack of food, these prisoners still had to do this work?

A I did not have any authorization to determine the work. I did not have any influence upon it. A higher authority authorized these prisoners to be put to this work with this food which they had and this higher authority would then have to bear the responsibility for that. I do not feel myself guilty in this respect at all.

Q Do you remember, Mr. Schwarz, that yesterday in the course of examination you were asked why you did not hand out the potato supplies to the prisoners?

A Yes, I remember that.

Q Mr. Schwarz, I hand you Defense Exhibit 47 and ask you whether there are any notations about the potato rations?

A Yes, there are notes here about the food rations for prisoners in the concentration camp. Under paragraph 1, the general food rations are talked about. A special paragraph on page 2 talks about

(Schwarz-Re-direct)

the food and potatoes, and it says here that the most prisoners could receive for working would be 400 grams of cooked potatoes.

Q Mr. Schwarz, how were the potatoes turned over to the people in the year 1944 and 1945.

A After the potato harvest, the civilian population got their authorization amounting to the 600 pounds and they had to put these potatoes on storage for the winter. And the same way it happened in their household, that is the way it happened in the camp.

Q How long did these provisions have to last?

A This potato supply had to last until the next potato harvest came in, they had to last until the next potatoes were sold on the market, and that would mean reaching up until the last of July. And so potatoes which in the fall were given out and put on storage, according to the individual's amount, had to last until this point of time. If we had used up these potatoes ahead of time, say in the winter, then there would have been a gap in the food rations which we never could have filled up again.

Q Mr. Schwarz, I am talking now about the transport which came from Gross Rosen. Were the prisoners on that transport exclusively from Gross Rosen or did they come from other camps?

A These transports consisted of a number of regular prisoners, that is to say, prisoners who had been in arrest for some time in Gross Rosen. But the greater part of the prisoners consisted of prisoners who had just been delivered in Gross Rosen and evacuated from other camps in the east, like Auschwitz and Lublin, and they were just prisoners who were already weakened and became sick, and for that reason, they had increased the sick rolls and the mortality rate.

Q Yesterday, you were asked in connection with broken jaws, and I ask you now whether you had a dental clinic at the camp?

A Yes, there was a dental clinic in the camp erected for

the prisoners?

Q Who had charge of this dental clinic?

A There was a dentist and a technician.

Q Did this dental clinic have a special department for broken jaws?

A No, there was not any necessity for that.

Q Please give your exact route of march, Mr. Schwarz, from Hersbruck to Dachau.

A I do not believe I have to go into detail about the smaller towns; I will give the route as a whole. From Hersbruck, we went in a southeasterly direction to Lauterhofen, and then to Pfaffenhofen, Kastl, Schmidmühlen, Kallmünz, and then in a southerly direction to Hainsacker, and then we turned off to Pielenhofen, Hohenschambach, Kelheim, on the Danube, Saal on the Danube, Abensberg and in a southerly direction over Mainburg, and then Au, Hirnkirchen, Allershausen, Unterzeching, and Dachau.

DR. WACKER: No more questions.

PRESIDENT: Re-cross?

RE-CROSS-EXAMINATION

QUESTION BY MR. DENSON:

Q Schwarz, it is a fact, is it not, that higher authority authorized the operation of this extermination mill at Hersbruck and you carried out the order?

A You cannot call this camp an extermination mill. The erection of the camp was ordered by a higher authority and I was ordered to go there as camp commander.

Q They had over 1200 men die in a little over one month, you do not call that an extermination mill?

MR. MCKAY: The question is objected to as being argumentative.

PRESIDENT: Objection sustained.

Q What do you call a place, Schwarz, where the death rate is over 1200 men in a little over one month, out of less than 5,000 prisoners?

A What should I say to that? There were other camps in the war where the mortality rate was higher.

Q We are not talking about the war. These people did not have arms. They were poor defenseless prisoners. I want to know what term you use to describe a camp where the death rate is more than 1200 in a period of time of a little over one month, where the population before that was a little over 5,000?

MR. MCKAY: The question is objected to as being argumentative in form.

PROSECUTION: There is nothing argumentative about it at all. It does not argue any facts that have not been testified to. I am asking him to describe the place that has those conditions. Mr. McKay has objected to the other question, that it is argumentative in form and the court has sustained that objection. I have a right to find out from this witness just what term can be applied to a camp of this type.

MR. MCKAY: And a further reason for objecting to this question is that it calls for a conclusion, which invades the province of this court.

PRESIDENT: The objection of Mr. McKay, on the last basis, is sustained.

Q Where was the death rate higher than it was at Hersbruck, other than in Kaufering number 3?

MR. MCKAY: That question is also argumentative.

PRESIDENT: The objection of Mr. McKay is sustained. Mr. Prosecutor, I cannot see where we are getting any place with a

question of that nature. The court has certain evidence before it and the court will weigh this evidence.

PROSECUTION: The question was prompted by his reply that there were other camps worse than Herzbruck.

Q Is it not a fact, Schwarz, that higher authority authorized the operation of this place at Herzbruck where the death rate was greater than 1200 men in a period of time a little over one month and that you carried out the policies of higher authorities that authorized the camp?

A Yes.

Q Is it not a fact, Schwarz, that the most that could have happened to you if you had issued out these potatoes which had been alloted to you, would have been to be relieved from duty as commandant of that camp?

A That is right.

Q And was it not a fact, Schwarz, that the operation of Pommelsbrunn and Happurg was a very important operation?

A The operation of Happurg was the main operation. In Pommelsbrunn, there were just constructions going on and work was done there which was necessary for the main operation.

Q And the work there at Happurg had a higher priority with respect to completion, had it not?

MR. MAAS: The question is objected to as calling for an answer which is irrelevant and immaterial to any issue in this case.

PROSECUTION: I do not want to reveal the point that I am leading up to but I assure the court it is both material and relevant.

PRESIDENT: The prosecutor may proceed, but at the same time the court wishes to remark that it does not appear relevant to the issue.

PROSECUTION: I will show you in just a minute.

Q Answer the question please, Schwarz.

A Will the prosecutor repeat the question.

Q Yes. Is it not a fact that prisoners were sent to work at Happburg who were in the best physical condition of the prisoners that were available?

A There wasn't any difference made over the physical condition of the prisoners in the giving out of work details. It was all the same.

Q Do you mean to tell this court that the prisoners who worked on the Happburg detail were not supposed to be stronger and in better physical condition than those prisoners who worked around the camp, for instance?

MR. MCKAY: That question is objected to as being argumentative in form.

PRESIDENT: The question has already been answered. Objection sustained.

Q Was it not a fact, Schwarz, that prisoners that became ill at Herzbruck were transferred to Flossenburg and that prisoners who were in good physical condition or better physical condition were sent to Happburg from Flossenburg to take their place?

A I will answer the first part of the question. Sick people were sent to Flossenburg from Herzbruck.

Q Well, answer the second part.

A Yes.

Q Was it not also a fact that these prisoners at Happburg were made to work with nothing on but their trousers, in other words, they were naked from the waist up?

A No.

Q That never took place?

A No.

PROSECUTION: No further questions.

PRESIDENT: Re-direct? Dr. Wacker.

RE-DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q If you had refused to carry out any directives, Mr. Schwarz, what change would have taken place for the prisoners?

A I would have had to leave the camp. Whatever remained in existence there would not have been changed as far as the prisoners were concerned. I would have had to leave and then there would have been a question of whether my successor had conducted matters the way I had conducted matters.

DR. WACKER: No further questions.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place at 0935 and re-convened at 0945.)

PRESIDENT: Dr. Wacker.

RE-DIRECT EXAMINATION CONTINUED

QUESTIONS BY DR. WACKER (continued):

Q Mr. Schwarz, were the prisoners merely distributed to the Hamburg work detail or were they distributed to the other work details?

A They were not sent just to the Hamburg detail; they were sent to the various work details and one of the biggest was this NUERNBERG Nuernberg work detail.

Q Was there any special orders out in regard to filling out one detail or were the rules applicable to all work details?

A When the work detail was filled out the first thing taken into consideration was the need for skilled workers and this need was filled. For instance, carpenters, masons and electrical technicians, these people were distributed to the various work details as many as could be distributed wherever the need was greatest. As far as the ordinary workers or assistant workers not skilled, were concerned,

these people were given out to the various commandos according to the numbers.

Q Mr. Schwarz, you answered "yes" to the question as to whether or not you had carried out the order which was given you. I want to ask you now what extent this order had and whether it extended as far as the work details were concerned.

PROCTOR: I object to that question on the grounds that there was no such question asked Mr. Schwarz yesterday.

DR. ROCHE: This question was not asked yesterday; it was just asked.

PROCTOR: I object to the predicate. He was asked a question and answered "yes", and that is the point I am talking about.

PRESIDENT: Will the reporter read the question.

(Thereupon the reporter read the question.)

PROCTOR: I will withdraw that objection.

PRESIDENT: Proceed.

(Witness answering.)

A What was that question.

PRESIDENT: Will the reporter read the question again.

(Thereupon the reporter read the question.)

(Witness answering.)

A Yes, these orders also extended to the work details. I had to put the prisoners to work because of an order from higher authority. As far as I was concerned, the prisoners could have worked just as well inside the camp.

Q I do not believe you understood my question exactly. I ask you now whether you yourself actually determined the work details?

A I did not determine the work. I merely put the prisoners to work, told them what work they had to do and where they had to work;

I did not have any kind of influence there.

Q Could you find out how many prisoners were in Hersbruck who had worked in Hersbruck from the very beginning?

A I did not make any calculations according to numbers. But I know that when I arrived there, there were prisoners there already who stayed there until the evacuation and arrived here at Dachau. But I would like to emphasize they were not prisoners who had any special function, but were ordinary prisoners, just like any other prisoners there.

Q What I want to know, Mr. Schwarz, is whether the work itself was responsible for the sick and the high mortality rate, or whether the work played a part there?

A The work itself was certainly not responsible for the high mortality rate. It is the opinion, explained here in great detail, that one of the factors responsible for that was the condition of the prisoners who came into the camp. They got sick easily, and then the individual factors have to be added.

Q Please count off these factors, tell us about these factors.

PROSECUTION: I object to that as being repetition.

DR. WASSER: Then I withdraw my question. No further questions.

PRESIDENT: Re-cross?

PROSECUTION: No questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COLONEL BURCHAM:

Q Schwarz, you are trying to tell this court, trying to convey to this court the idea that you were the helpless victim of a vicious system which filled the camp with unlawful imprisoned slaves which were caught up into the wicked machinations of a mythical higher

headquarters, is that right?

A I said I carried out the order which was given to me as a soldier which I was told to carry out. If I had been ordered to the front at that time, then I would have gone to the front. That is the way I got this order to take over the camp, and for that reason, I had to carry out this order whether I wanted to or not.

PRESIDENT: Further questions by members of the court? Apparently there are none. Re-direct?

DR. WACKER: No more questions.

PRESIDENT: Re-cross?

PROSECUTION: No further questions.

PRESIDENT: The court understands the defense is finished with this witness for the time being.

DR. WACKER: Yes, sir.

PRESIDENT: The witness will be excused and resume his seat in the dock.

(Whereupon the witness SCHWARZ, having been duly excused by the court, resumed his position in the dock.)

PRESIDENT: The record will indicate that the accused SCHWARZ has resumed his position on the witness stand.

LUDWIG SCHWARZ, an accused, resumed the stand and testified further through an interpreter as follows:

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

A At this time the court will give you an opportunity to make any explanation or any statement to the court that you see fit.

A I have nothing else to say to the court.

PRESIDENT: The witness will be excused and resume his position in the dock.

(Whereupon the witness SCHWARZ, having been duly excused by the court, resumed his position in the dock.)

Ta-GIO-19 Nov
ebw-ll
Flees

MR. MCKAY: The next witness will be the accused

HURST, to be represented by Dr. Engelhorn.

JOSEPH HURST, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Mr. Hurst, what is your full name?

A Joseph Hurst.

Q Are you an accused in this case?

A Yes.

PRESIDENT: Hurst, the court understands that you desire to take the stand in your own behalf, is that correct?

ACCUSED HURST: Yes.

PRESIDENT: Proceed, Dr. Engelhorn.

Q When were you born?

A March 2, 1920 in Czechoslovakia.

Q What nationality are you?

A Czechoslovakian.

Q Are your parents still living?

A I have not got any word about them since 1944.

Q Do you have brothers and sisters?

A Yes, I have two sisters and one brother.

Q What do you know about your brothers and sisters?

A Exactly as much as I know about my parents.

Q What is your religion?

A Roman Catholic.

Q Where did you go to school?

A In my native city, Riebinig.

Q How old were you when you left school?

A 14 years old.

Q What did you do then?

A Then I took over the profession of tailor.

Q Did you serve your apprenticeship there?

A Yes.

Q Did you take your examinations?

A Yes. I also visited a specialist school.

Q When did you take your final examinations?

A I took my journeyman's examinations in 1939.

Q After that, what did you do?

A I worked as an assistant.

Q Until when?

A Until I was drafted in the work service.

Q When did this draft into the arbeitsdienst take place?

A 15 February 1941.

Q What did you have to do with the work service, with the arbeitsdienst?

A First, we had training, then we were put in, in Poland and Russia.

Q What kind of work did you have to do in Poland and Russia?

A Road construction and sharpening hand-grenades.

Q How long were you with the work service?

A Until the 20th of December 1941.

Q What happened then?

A I was released and on the 5th of January 1942, I was sent to the air forces.

Q And then where did you go?

A I went to Fels, near Vienna, and further we went to France, Antres.

Q What kind of duty did you perform there?

A We received training as infantrists.

(Furst-Direct)

Q How long did you stay there?

A I stayed there in Antrea until April 1942.

PRESIDENT: The court will take a half hour's recess.

(Whereupon the court recessed at 1000 hours.)

(Furst-Direct)

MORNING SESSION

(Whereupon the court reconvened at 1030 hours)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the members of the court are present, all the members of the prosecution staff are present with the exception of Mr. Denson and Mr. Painter who are absent on business of the prosecution, all the members of the defense staff are present with the exception of Colonel Wilson who is absent on business of the accused, all the accused are present with the exception of Bisbusch, Losch, Mussfeldt and Oswalt who are sick in the hospital and whose interests are being taken care of by their counsel. If there are any spectators in this courtroom who expect to be called as witnesses they will please leave the courtroom.

The court has appointed Patricia Stewart as reporter.

PRESIDENT: She will be sworn.

(Whereupon Miss Patricia Stewart, U.S.civilian, was duly sworn as court reporter)

PRESIDENT: Continuation of direct examination by Dr. Engelhorn.

JOSEPH WURST, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY DR. ENGELHORN:

Q Mr. Wurst, you testified that in January 1942 you transferred to the Regiment of the Air Corps. What is the continuation of your experiences ?

A In April, 1942, we made a ~~trade~~ training march during the night, in course of which we hit a passenger car and I was wounded. Due to this injury I was transferred to the hospital in Paris. The name of this hospital of the Air Forces was Clichy.

PRESIDENT: The court questions that term "wounded". Was he injured or wounded?

THE WITNESS: Wounded, because we hit the car, the automobile.

DR. ENGELHORN: What kind of injury did you have?

THE WITNESS: I had a wound on my head.

PRESIDENT: The term "wound" is the result of enemy action otherwise it was an "injury". The court understands this was an injury.

THE WITNESS: Injury of my head.

QUESTIONS BY DR. ENGELHORN:

Q How long did you remain in the hospital?

A I remained in the hospital up until September.

Q September of what year?

A 1942.

Q Where did you go then?

A In September 1942 I was sent to a convalescence Company in Biesingen.

Q How long did you stay there?

A I remained with this Convalescence Company up to the end of October.

Q Please always give us the year. October of what year?

A 1942.

Q And then where did you go?

A Then I was transferred to a Replacement Company.

Q Where?

A Nagold.

Q From there where?

LAW MEMBER: The court questions the spelling of Nagold.

INTERPRETER: N-A-G-O-L-D.

QUESTIONS BY DR. ENGELHORN:

Q Did you hear my question?

A At the present time I cannot recall very well after that.

Q Does it have anything to do with your head injury that you cannot remember now?

A Yes.

Q Can I interrogate you further then?

Ta 811-Nov.19
lm-3
Ploss

A Yes you can, but at the present time I cannot recall where I was during the period of time from October 1942 to June 1943.

Q Then I ask you this question. Did you later go to the front again?

A In September 1942, or beginning of October 1942, I was sent to a Supply Column of the Air Forces to Marsalla in Italy. We had to take care of the supplies which had to move from Marsalla to Tunis. I remained with this Supply Column up to 11 of May--no, just one moment--that was in October 1942 when I was leaned to the Supply Column, not in 1943, and I remained in Marsalla up to the 11th of May 1942. And on the 11th of May 1943, in the course of an air raid I was injured which resulted in a head injury and an injury in my right arm at the elbow. Subsequently I was sent to a hospital at CARDANIA Cardania. From there I was sent to Naples and from there I was sent to a hospital train and sent to Alt Oetting in upper Bavaria.

Q Was that a hospital in Alt Oetting?

A It was a replacement hospital. I remained in this hospital in Alt Oetting up to August and in August I was retransferred to the convalescence hospital in Biesingen and then released from the hospital.

Q Where is Biesingen located?

A Biesingen is located near Hohenzollern in the district of Schwaben.

Q Then where did you go after you were released from the hospital? That is to say, after you were discharged from the convalescence company?

A In October I was transferred to the Headquarters Company from the Convalescence Company due to the fact that I was classified GVH.

Q What is GVH?

A That means satisfied for garrison duty only.

Q What does the "H" stand for?

A HOME. The Headquarters Company of the Air Forces No. 2 was located in Padua, Italy. I was suppose to get an easy job there. I was on duty there for several weeks, but due to the fact that I had trouble with my head I was sent back to the Convalescence Company in Biesingen. That was in February 1944.

Ta 511-Nov.19
1a-4
Floss

I remained there at the Convalescence Company until I was transferred to Leitmeritz which was a Guard Company of the Air Forces. The Guard Company of the Air Forces was taken over by the SS on the 1st of September, 1944. Due to the fact that our unit did not want to go and went into MUTINY as a whole formation, our unit was transferred to the Phone Company in Dachau which was a punishment company.

Q Why did your unit strike?

A We didn't want to be transferred to the SS. Then our Company was under constant observation of the Gestapo, Secret Service Police.

Q Had you previously been a member of the party or one of its organizations--I mean prior to the day you were transferred to the SS?

A No, I was not a member of the party or of its affilitations but I received a membership card of the Chairman Labor Front in 1939.

Q And the 1st of September, 1944, were there other units or branches of the armed forces transferred to the SS as well.

A All the members of the Air Forces who were not fit for the front line were transferred to the SS by order of the National leader Herman Goering.

Q How long did you stay there in Leitmeritz?

A I remained there up to the 5th of April, 1945, and prior to that I was put under arrest for 40 days because of violation of guard regulations.

Q What kind of uniform did you wear in Leitmeritz?

A The uniform of the Air Forces.

Q After you had transferred to the SS as well?

A But we had to take off our yellow color insignia from the Air Forces and our company received swastika insignia instead and we had to sew on these swastika insignias right away.

(Hurst-direct)

Tu 611-Nov.19
lm-5
Floss

Q What kind of cap did you wear?

A The cap of the Air Corps.

Q During the entire time you were at Leitmeritz?

A Yes.

Q And then what happened next?

A The 10th of April, 1945, I arrived in Flossenburg.

Q How come you were sent to Flossenburg?

A We were transferred in a group of 100 men and we were suppose to be assigned to front line duty. We were suppose to receive new clothing and front line equipment in Flossenburg.

Q And then were you actually assigned to front line duty?

A No, we didn't get that far.

Q Why not?

A Because the evacuation took place on the 20th of April.

Q Did you do any kind of duty in Flossenburg up to the time you arrived there to the time you were evacuated?

A No, I lived in the school house of Flossenburg, it isn't the village of Flossenburg.

Q And you didn't have anything to do in the camp?

A No, we only used the mess-hall of the SS there.

Q Please tell us what happened on the occasion of the evacuation.

A On the 18th all of the SS members, and the members of the Air Corps, had to go on a march, but we returned and on the 20th of April the orders came through to evacuate the camp. We divided into companies. The First, Second, and Third transport had already left when we had to fall in.

Q You say "we" were forming the Company, what kind of people were there?

Ta 611-Nov.19
lm-6
Floss

A Members of the SS, of the Navy, of the Regional Division Units, and of the Air Corps.

Q And then what happened next?

A We were suppose to leave with the Fourth Transport but the Fourth Transport had already left and we--15 men of us--were assigned to the supply column. We had 4 carriages on which the baggage of the SS men was put, and we left one-half hour after the transport had left. I remained with these carriages of baggage until the night of the 22nd or 23rd of April and then during the night I left the supply column, together with a friend, and we went in the direction of my home. I spent the night in the house of a farmer near Stamsried and at 9:00 o'clock in the morning on 23rd of April I left this place and went in an easterly direction, together with my friend, and then we stayed in a village in the East of Stamsried--no it was not actually a village there were a few houses standing there--and we stopped to have breakfast. We went into the house and found a Sergeant who allegedly was from a transport.

Q Was this Sergeant in uniform?

A Yes, He was wearing the SS uniform. He asked us where we belonged, to the evacuation march, and I told him "yes". He asked me whether or not I knew what we had already done. I answered "No, I am looking for my column and I don't know where it is". He said "apparently you don't know that you have already deserted, apparently you don't know that I am entitled to shoot you on the spot". I told him I knew that but I am looking for my column, I didn't leave in order to desert. He told me up there in the second house there are

611-Nov.13
1m-7
Floss

prisoners who looted the property of the civilian population. He wanted me to get the prisoners out of the house, together with my friend, and we picked the prisoners up from the second house. There were about 16 or 15 prisoners which we removed from the house.

Q How did you know those people were prisoners?

A They were wearing prisoner clothing. Some of them were wearing civilian clothes with the letters of KL which stands for concentration camp. Then he gave us orders to march off in the direction of the woods, together with these 16 prisoners. When we arrived in the meadow near the forest he ordered us "sit down". Then he selected a few young prisoners between 15 and 18 years old and told them to separate themselves from the rest. I asked the Sergeant what was to become of these prisoners and he answered "that is none of your business at the present time". "I know what will become of these prisoners". Then he asked us "do you have any ammunition". I answered "no" but my friend had some ammunition left and he gave me 5 shots and he told me to load the gun and then he gave us the orders to my friend and myself to shoot the prisoners to death. I told the Sergeant I couldn't do that. He pulled his pistol and uncocked it and he said "I would like to see whether or not you can do that" and I was in such a condition that I didn't know what to do. I tried to talk him off but he would have shot me down sooner than I could have shot him with my rifle, so there wasn't any choice left for me. I had to shoot the prisoners. I fired 4 shots and I saved 1 shot. I told him "I am out of ammunition" and he said "that is all right". Then American tanks arrived and I asked the Sergeant whether he saw the American tanks and he turned around and saw them. Then he turned around again and told these young boys who were separated from the rest to go back to the house, and he told us "we will continue our way in the direction of the woods" and there in the woods the Sergeant disappeared.

Q Did you see this Sergeant at some later date?

A No, I neither saw him prior to that incident nor after that. We continued our march until we reached the border of Czechoslovakia.

Q Who do you mean when you say "we"?

A My friend and myself.

Q What was the name of your friend?

A Martin Marci.

Q And then what happened next?

A We spent two days in the house of a widow who had a daughter, and after these two days we left for Eschlkamm near Fuerth in the woods where we remained up to the 29th of April. That is to say in Eschlkamm, and then we went to surrender to the Americans in Fuerth on the 29th of April. We were taken prisoners and were sent to a PW camp in Cham. The exact location of the PW camp was in a field near Johanneshof.

Q How long did you stay in this camp?

A I remained in this PW camp up to the 23rd of June.

Q Did you leave the camp during this period of time?

A No.

Q And then what happened on the 23rd of June?

A On the 23rd of June I was released from the camp. Then I went through Cham where I met a young boy of about 15 or 16 years of age and he told me I was an SS man. He went into the brewery of Cham to pick up 10 more prisoners, that is to say former prisoners, and they told me "you are an SS man" and that I should come along to the CIC. I went along and it was quite a reception I got when I came to the CIC.

Ta 611-Nov.19
lm-J
Floss

Were you interrogated by any member of the CIC?

A Including a beating.

Q What did you testify to because of this interrogation?

A I do not know. It was some document in English. I was beaten until I signed it.

Q Were you asked whether or not you shot somebody to death?

MR. BARKOWITZ: Just a moment, I object to any question concerning the interrogation at Cham by the CIC as immaterial.

PRESIDENT: Mr. Vozay, go ahead but make it brief.

MR. VOZAY: Any interrogation by any American authority has a bearing on the situation this man may have found himself in and gives the Court an idea of the background he had as to any statements he may have made.

MR. BARKOWITZ: May it please the court, there is no statement made at Cham which has been introduced in evidence.

PRESIDENT: Objection overruled.

CONTINUED BY DR. BARKOWITZ:

Q What did you testify to during this interrogation?

A I stated, in the course of this interrogation, that I had shot four people to death because I was ordered to do so by a Sergeant of the SS and because I was threatened.

Q Then what came next?

A Then in Cham I was put in a gymnastic hall, an exercise hall, and I remained there for two days and then several more prisoners were put in there. Then there was a group of us we were transferred to Natternberg.

Q Where is that camp located?

A Natternberg is situated near Straubing. I remained in the internment camp at Natternberg until October, 1945.

(Kurat-direct)

Ta 611-Nov.19
lm-10-
Pless

Q And then?

A Subsequently I was sent to Dachau to the bunker.

Q Have you been in Dachau ever since?

A Yes.

Q Do you remember the testimony of the witness Tannenbaum?

A Yes.

Q What do you have to say to his testimony?

A The testimony of Tannenbaum is a pure prevarication and out of thin air. I was not arrested 3 weeks later as he said. I was not arrested until the 23rd of June. Furthermore, I did not wear a SS cap, it was the Sergeant of the SS who was wearing the cap.

Q Did you ever wear a SS cap?

A I never wore a SS cap.

Q Not on the evacuation march either?

A No, I never was wearing the SS cap during the evacuation march.

Q Do you remember that Tannenbaum stated, in course of his testimony, that you went to the scene of the crime together with the CIC in a jeep?

A I never was taken to any scene of the crime.

Q How do you account for the fact that Tannenbaum says all of these things.

MR. BERKOWITZ: That is objected to, the court please, as calling for a conclusion on the part of the witness.

PRESIDENT: Objection overruled.

A Well, it is possible that it was a different incident he had in mind. It could be a different incident which happened in the course of the evacuation march, otherwise it is a riddle to me how he could testify to such a thing.

(Wurst-direct)

a 611-Nov.19
1m-11
Floss

Q Were you interrogated after you arrived in Dachau? If so, by whom?

A I was interrogated in Dachau by a Polish Lieutenant.

Q What did you state in course of this interrogation?

A I stated that I shot 4 people to death.

Q Did you also state that you shot these people upon orders of the SS?

MR. BERKOWITZ: That is objected to, the court please, as the matter is in evidence. The paper itself is the best evidence of what he said.

DR. ENGELHORN: With reference to the credibility of this accused I think it is important and it is interesting to know what he stated during this interrogation, whether it is the same thing as he states now.

PRESIDENT: Objection overruled.

A I made the same statements to the Polish Lieutenant that I made now on the witness stand, and he then told me - -

PRESIDENT: We do not want to go into detail on that.

DR. ENGELHORN: That is enough what you have told us now. I have one more question.

PRESIDENT: Proceed.

QUESTIONS BY DR. ENGELHORN:

Q Did you ever in your life wear a SS uniform?

A Yes, once I was wearing a SS uniform in Leitmeritz. When we had to go to the photographer on this day I had two pictures taken. One picture was taken in the uniform of the SS, and one picture was taken in the uniform of the Air Corps. There was a friend and a fellow citizen of mine, whose name was Hans Zellner, and he had borrowed the SS uniform and we said for a joke "well, let's go and have some pictures taken in the SS uniform".

Ta 611-Nov.19
lm-12
Floss

Q There is one other thing I would like to ask you. Were you promoted in the army, and what kind of rank did you reach?

A My rank was Corporal in the Air Forces.

Q Is that the last promotion you had?

A Yes, that was my last rank.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place)

PRESIDENT: The court will come to order.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q You stated your home town is in Hiecinig. Is that in the Sudeten land of Czechoslovakia?

A Hiebinig, in Czechoslovakia.

Q And you are a Volksdeutschen?

A Yes.

Q Where did you say you were discharged on the 23rd day of June, 1945?

A In the PW camp.

Q Where was that?

A In Cham.

Q How long after that were you arrested and taken to the CIC?

A It could have been one hour after that.

Q What date was that?

A 23rd day of June, 1945.

MR. BERKOWITZ: I hand the reporter a document and request that it be marked Prosecution Exhibit No. 81 for identification. This is a Certificate of Discharge.

(The document referred to was marked Prosecution Exhibit No. 81 for identification)

Ta 611-Nov. 19
1m-13
Floss

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place)

PRESIDENT: Court will come to order.

QUESTIONS BY MR. BERKOWITZ:

Q Now Nurst, I show you Prosecution Exhibit marked No. 81 for identification and ask you if this is your signature which appears thereon.

A Yes.

MR. BERKOWITZ: I will ask the interpreter to interpret the title of the document marked Prosecution Exhibit No. 81 for identification.

(Whereupon the interpreter translated the title of the Certificate of Discharge from English to German)

QUESTIONS BY MR. BERKOWITZ:

Q Nurst, I again show you Prosecution Exhibit No. 81 for identification which is a Certificate of Discharge, and ask you the date stamped thereon.

A. It is the 23rd of May.

Q What year?

A 1945.

MR. BERKOWITZ: I offer in evidence Prosecution Exhibit No. 81 for identification, being a Certificate of Discharge by American authority of Josef Nurst, dated 23rd of May, 1945.

PRESIDENT: Any objection on the part of the defense?

MR. McKAY: No objections.

PRESIDENT: Subject to objection by any member of the court the court will receive Prosecution Exhibit No. 81 in evidence and give it such weight as the court sees fit.

(Whereupon the document heretofore marked Prosecution Exhibit No. 81 for identification, being a Certificate of Discharge, was received in evidence as Prosecution Exhibit No. 81 and attached hereto and made a part of the record)

Ta 611-Nov.19
1m-14
Floss

PRESIDENT: Court will take a short recess in place.

(Thereupon the court recessed in place)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: I hand the reporter a document and request that it be marked Prosecution Exhibit No. 82 for identification.

(The document referred to was marked Prosecution Exhibit No. 82 for identification)

MR. BERKOWITZ: May it please the court, I offer in evidence an Arrest Report prepared by the CIC in Cham, dated 24 May, 1945, concerning Josef Wurst.

PRESIDENT: Any objection on the part of the defense.

MR. McKAY: No objection.

PRESIDENT: Subject to objection by any member of the court the court will receive Prosecution Exhibit No. 82 in evidence and give it such weight in evidence as the court sees fit.

(Whereupon the document heretofore marked Prosecution Exhibit No. 82 for identification, being an Arrest Report, was received in evidence as Prosecution Exhibit No. 82, is attached hereto and made a part of the record)

PRESIDENT: Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q In your direct examination you stated that you were interrogated by the Americans on the 23rd of June. Is that correct or was it an error on your part? Please try to remember.

A I can only say that it was after the arrest and that it was on the 23rd. That is a long time past and I cannot say exactly what month.

Q Am I correct then in understanding that what you mean to say is that you were released on the 23rd, but you don't know what month?

A Yes, that is right.

Ta 611-Nov.19
1m-16
Floss

Q You also stated that after you were released you were interrogated by the CIC.

A Yes, that is what I said, and I also stated that I was beaten until I signed this document.

Q In what language was this document made out?

A It could have been only in English.

Q Do you understand English?

A No.

Q In what kind of language were you interrogated?

A In German.

Q So that you could not read this document over.

A No.

Q Was this document read to you?

A No.

Q How long did this interrogation take?

A It could have been 3 or 4 hours.

Q Did you see how this report was written?

A Yes.

PRESIDENT: Court will adjourn until 1330.

(Whereupon the court adjourned until 1330)

Ta 612
11/19
pe-1
Floes.

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Colonel Wilson and Mr. O'Connor, who are absent on business of the accused; all the accused are present, with the exception of Losch and Oswalt, who are ill and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of redirect examination.

JOSEF WURST, an accused, resumed the stand and testified further through an interpreter as follows:

REDIRECT EXAMINATION (Continued)

QUESTIONS BY DR. EKELMANN:

Q Mr. Wurst, if I understood you correctly, you said this morning that when you were interrogated in Cham by the C.I.C., you signed some written document, is that right?

A Yes, I signed a document.

Q Can you tell us what this document looked like?

A It was written with the hand.

Q Not with the typewriter?

A No.

Q Can you tell us how long this document was, whether it was one or two pages?

A It must have been one page.

Q Was the document in English or German?

A In English.

Q As long as you were in arrest, did you learn to know a certain Toerner?

A Yes, I learned to know Toerner in Bunker I.

Q What did you experience with this Toerner?

MR. BERKOWITZ: I object to that as incompetent and irrelevant, and not a proper subject for redirect examination.

DR. ENGELHORN: The reason I asked this question is to show why this accused does not have any witnesses.

MR. BERKOWITZ: May it please the court, that is not material. If the witness wants to explain why he does not have any witnesses, that question may be asked of him.

DR. ENGELHORN: I want to prove that someone did offer to appear here as a witness for this accused and to say something favorable about him , and this accused turned him down.

PRESIDENT: Objection overruled.

QUESTION BY DR. ENGELHORN:

THE WITNESS: On the 20th of October, I was called by Dr. Engelhorn for a conference, and when I was in the waiting room, Paul Toerner came to me and said, "You have got a ring. What is the stamp on it?" I said, "585." He said to me, "I want to appear as an eyewitness in your affair and say that I was there, and testify for you, if you give me this ring." He said that I should tell him exactly what the affair is about so that he would know what

happened and when it happened. I said, "You won't get anywhere with me. If people are going to appear as witnesses, why would witnesses be taking a ring off somebody's finger and getting what they can out of it?" The accused Wodak was sitting there and overheard the conversation, and Kurt Schreiber sat on the other side of Paul Toermer at a distance of two meters.

Q Could Toermer testify anything about you at all? Did he ever see you?

A I didn't learn to know Paul Toermer until this year in Bunker I. I had never seen him before.

DR. EMGELHORN: No more questions.

DR. WACKER: Is this Paul Toermer the Paul Toermer who appeared here as a prosecution witness against the accused Pawliczek?

THE WITNESS: That is the same one. That is Paul Toermer.

DR. WACKER: No more questions.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Is this the same Paul Toermer who appeared here as defense witness for some of the defendants?

A Yes.

Q As a matter of fact, wasn't it Schreiber who offered to give a ring to Toermer if Toermer would testify for him?

A No, the way it was, he first approached me about a ring, and then he went to Kurt Schreiber.

Q Are you sure that Kurt Schreiber did not offer him a ring if he would testify for him?

A I can't say that.

MR. BERKOWITZ: No further questions.

PRESIDENT: Questions by the court?

QUESTIONS BY LAW MEMBER:

Q When did this affair take place?

A The 20th of October, 1946.

Q What was the status of Toerner at that time?

A He was in Bunker I, and he was in the waiting room out front there as a defense witness.

Q Was he a prisoner in Bunker I, do you know?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently not.

MR. BERKOWITZ: No more questions.

DR. WACKER: Nothing further.

PRESIDENT: The court understands the defense has finished with this witness for the time being.

DR. ENGELHORN: Yes.

PRESIDENT: Do you desire to make any explanation to the court at the present time?

THE WITNESS: Not at the present time, no.

PRESIDENT: The witness will be excused and will resume his position in the dock.

(Whereupon the witness did as directed.)

MR. McKAY: The next accused who desires to take the stand in his own behalf is the accused Erhard Wolf.

Ta (12
11/19
ps-5
Floss.

ERHARD WOLF, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

MR. BERKOWITZ: May it please the court, Dr. Engelhorn has called my attention to an error in the translation of Prosecution Exhibit 54. On page 1676, in answer to a question, the witness Motet stated, according to the record, "My words were not rightly translated. They were struck down. They were shot.", and this should read, "My words were not rightly translated. They were not struck down. They were shot to death."

PRESIDENT: Does the assistant prosecutor desire to make a statement?

MR. BERKOWITZ: I just want to call the attention of the court to that error, the omission of the word "not." The record reads, "They were struck down." It should read, "They were not struck down."

PRESIDENT: The court understands, then, that the assistant prosecutor agrees with the suggestion of Dr. Engelhorn that it is an error?

MR. BERKOWITZ: That is right.

PRESIDENT: The court will approve the matter. The correction will be made as indicated. Proceed, Dr. Engelhorn.

QUESTIONS BY DR. ENGELHORN:

Q Mr. Wolf, what is your full name?

A Erhard Wolf.

Q Are you an accused in this trial?

A Yes.

PRESIDENT: Wolf, the court understands that you desire to take the stand in your own behalf, is that correct?

THE WITNESS: I beg for that privilege, Mr. President.

PRESIDENT: Proceed, Doctor.

QUESTIONS BY DR. ENGELHORN:

Q When were you born, Mr. Wolf?

A 17 April 1899.

Q Where?

A In Striegau, in Silesia.

Q Are you married?

A Yes.

Q Since when?

A October, 1921.

Q Do you have any children?

A Yes.

Q How many?

A Two; one son and one daughter.

Q Where are your children?

A My son is missing in action. He was an infantry soldier in Russia.

Q Where is your daughter.

A My daughter is in Wittenberg. That is my native city.

Q Where is your wife?

A My wife is also in Wittenberg.

Ta 612
11/19
pm-7
Fless.

Q What schools did you attend?

A I attended all eight grades of the grammar school.

Q Until when?

A 1905 to 1913.

Q After you left school, what did you do?

A I went into an apprenticeship as merchant, which lasted three years, from 1913 to 1916.

Q Did you take an examination then?

A No, an examination wasn't necessary, but I took advanced training as a merchant during these three years.

Q After you had taken care of your apprenticeship, what did you do?

A I was an employee in Wittenberg until 1917.

Q As a merchant?

A Yes, I was a merchant employee.

Q What made a change in your position?

A My draft to the Army in 1917.

Q Where were you drafted to, I mean, to what troop?

A The infantry.

Q Did you see action? Did you go to the field?

A Yes, in February, 1918.

Q Were you wounded?

A Yes, three times.

Q Were you promoted?

A In May, 1919, I was discharged as a sergeant.

Q After you got out of the Army, what did you start?

Ta 612
11/19
pm-C
Floes.

A After I was discharged from the Army, I was active as a merchant employee in Wittenberg and in various other towns.

Q What was your first function, your first job?

A After being unemployed for the years 1920 to 1921, in the year 1921 I was employed in the Light and Power Works in Wittenberg as an employee in the merchant section.

Q How long did this position last?

A Twenty-two years, until 1943.

Q Did anything change in your job since the year 1933?

A Yes. I was supposed to be fired without any reason in 1933, because I belonged to a union which was opposed to the administration there, and I was not a member of the party. Through conditions unknown to me, this reason didn't take place. I was not fired, but I was told to enter the party immediately the next time applications were accepted. Since I didn't do that, I had a lot of trouble which took effect in my department there. At the end of 1933, there was in our section an S. S. Standartenfuehrer -- his name was Kitterbusch -- and he recommended very strongly to me that I should at least become a member of the S. A. Then in February, 1934, I became an applicant for membership in the S. A. I was wrong in believing that that would better the conditions existing between me and my employers. In the year 1943, without telling me anything

about it, a former apprentice in my department took two specialists out of my department for the service, and that motivated me to ask that my designation be changed. My designation at that time was that I couldn't be drafted without preliminaries.

Q I want to ask you something else before you go into that. Did you become a member of the Nazi Party?

A Yes, in 1937. That occurred automatically through the S. A.

Q Did you report yourself to the Nazi Party, or did your membership take place automatically via the S. A.?

A I already said that that automatically took place through the S. A.

Q We stopped at that point where you said you asked that your designation be changed. What occurred then?

A My request was approved, and I reported to the draft office in Wittenberg.

Q Was that an Army station.

A Yes. At the end of September or the beginning of October, I was called to be investigated and examined by the S. S. as a result of my reporting there.

Q What year, Mr. Wolf?

A 1943.

Q What happened then?

A On the 4th of October, I was drafted at Oranienburg.

Q What was Oranienburg?

A Oranienburg was the main administration of all concentration camps.

Q Please tell us more.

A Then I joined march with a number of others to Flossenburg and arrived there on the 7th of October, 1943, and until around the 12th of October, 1943, I stayed as a member of the guard battalion in Flossenburg. I didn't have any duty there. I ran around with the other people in civilian clothing and received the uniform on the 12th of October, and was transferred to the staff of the command headquarters.

Q What kind of job did you have then?

A I became a block leader there, to be exact, from the middle of October to the middle of November, 1943.

Q What happened then?

A Then I became assistant commando leader in Department 2004, and I kept this job until the end of May, 1944.

Q Is 2004 the same as Messerschmidt?

A Yes.

Q What did you have to do there?

A I had to take the work detail off to work; I had to bring the sick people into the hospital; I had to receive the food; and I had to supervise the distribution of the food.

Q What brought about a change in this job?

A At the end of May, 1944, Adjutant Baumgartner issued an order, and the order said that from that point on, I would immediately take over charge of building the cells in the arrest building.

Q What did he tell you? What did the adjutant tell you?

A He asked me whether I was private soldier, and he said, "When you come in, report yourself to me immediately." I did that, and he told me that I would immediately take charge of building the cells.

Q What did you tell him?

MR. McKAY: When he stated the work he was assigned to by Sauerbrey, you said "building the cells," in English. Is that correct?

PRESIDENT: Verify that with the witness, interpreter.

(Thereupon the interpreter did as directed.)

THE WITNESS: Cell construction, building the cells; that is, in the prison.

QUESTIONS BY DR. [illegible]:

Q What is cell construction, cell building?

A The cell building in the prison.

MR. DONE: Does that satisfy you, Mr. McKay?

MR. McKAY: Yes, sir.

QUESTIONS BY MR. [illegible]:

Q What did you tell the adjutant when he said you were going to be transferred?

A I said that he could leave me there as merchant with Division 2004, and that was denied me in a manner which I could not understand, and he said it in these words, that that was the order of the commandant, and that was his own order, too. Technical Sergeant of the [illegible] Tochler asked the adjutant to let me read up because the night shift was coming on, so I stayed there that night and didn't take over till the next day.

Q In what capacity did you come into the cell building?

A Nobody told me about that. I didn't find out about it until later.

Q What happened?

A I did duty for one day back in the cell building, and then I heard that two technical sergeants of the S. S. had voluntarily reported to do this duty. Then I went to the adjutant again, and I told him that I had heard that two technical sergeants of the S. S. had today voluntarily reported to do this duty. I asked him if he would relieve me of this office again. The adjutant told me that these two technical sergeants were not fitted for this position, according to his opinion. One of them was a miner, and the other one, he believed, was a baker. There was a number of privileged prisoners in the arrest building and more were to be expected, and these two technical sergeants didn't give him any guarantee that they were fitted for that.

Q What do you mean by "privileged prisoners?"

A We called them special prisoners. They were prisoners who had a privileged treatment, inasmuch as they got the S. S. food, and they had permission to write and read.

Q Were they just Germans, or were they also foreigners?

A They were Germans and foreigners.

Q What kind of foreigners were among them?

A A Latvian, a Pole, a Dane, and a Swiss.

Q What was the purpose of this cell building? What were the duties for?

A The cell building was the place where punishments were carried out for the arrest building, for confinements.

Q Who would be punished there?

A Members of the S. S., as well as prisoners.

Q What kind of punishments were carried out against the S. S.?

A Confinement from three days moderate arrest up to fourteen days, as far as I can remember.

Q Did S. S. people come into the arrest building very often?

A There were always S. S. people in arrest in the arrest building.

Q Why were they being punished?

A Misdemeanors on watch, action contrary to discipline, absent over leave, etc.

Q What punishments -- I mean by that what arrest punishments -- were carried out against the prisoners?

A Punishments ranging from being confined on Sundays up to being confined for twenty-one days.

Q Was there any difference between the punishments pronounced against the S. S. and against the prisoners?

A Yes, if I am not wrong, inasmuch as prisoners could be subject to severe arrest up to twenty-one days.

Ta 612
11/19
pm-1h
Flone.

Q Wasn't there any severe arrest given to the S. S.?

A Yes, but I believe that only ran up to fourteen days.

Q What do you mean by "severe arrest?"

A Solitary confinement in a dark cell, and warm food only every third day; for the rest of the time, bread and water.

Q That was valid for both the S. S. and prisoners?

A Yes.

Q During the time that you worked in the cell building, were there any other punishments carried out there besides arrest punishment?

A No. Beatings with sticks, which were supposed to have been carried out before my time, were never carried out back there when I was there.

Q Were any death sentences carried out during the time when you were working there in the cell building?

A Yes.

Q Who gave the order that such sentences would be carried out?

A I got the order either from the adjutant or the roll call leader. I either got it orally or by telephone.

Q What happened after you got the order?

A Nothing happened right away. It wasn't until the roll call leader came into the arrest building that the prisoners would be brought out of the cells and taken into the wash room.

Q What happened there in the washroom?

A They had to undress, and then the roll call leader read them their sentences out loud.

Q In what language were the sentences read out loud?

A In the German language. If there were any foreigners there, an interpreter would be present.

Q Did the interpreter interpret the sentences?

A Yes, he interpreted them.

Q Do you remember anything that was put into these sentences which gave the reason why the person was being sentenced?

A I never saw a verdict with my own eyes, but I would hear the verdicts when they were being read, and I also talked to the roll call leader about it, and I can tell you about it.

Q Tell us about it, what you remember.

A Escape and burglary under cover of darkness, moral turpitude, manslaughter, assault and murder, sabotage and espionage.

Q Can you tell us what moral turpitudes were mentioned there?

A Yes, I still remember one case very well, because we were all of the opinion that it was a terrible crime.

Q What was that?

A A worker from the East was working for a farmer, and he took the baby of the farmer and sucked its sexual

parts so long that blood came and the baby died.

Q Can you tell us any more moral turpitudes?

A For the time being, I can't remember any more.

PRESIDENT: The court does not feel that it is necessary, Doctor. Proceed.

Q In this death sentence, was there any word about how the death sentence should be executed?

A Yes.

Q What was it?

A Fire by musketry, or by hanging.

Q What happened after the verdict had been read out loud?

A The prisoner was manacled, and after the commandant, the adjutant and the doctor were present, the prisoner would be taken off to the execution spot.

Q Please describe how an execution by musketry was carried out.

A The prisoner had to face the wall, and at a distance of ten to twenty centimeters, they were shot in the back of the neck with a small caliber gun.

Q What was the effect of the shot?

A I am a layman, I am not a medical student, but it is my opinion that death came instantly.

Q What did the doctor do at such an execution by musketry?

A After the execution had been carried out and the person had been shot to death, the doctor had to feel his pulse and check veins and arteries to make sure that the person was dead.

Q Was the prisoner always dead right away?

A No. There was one case where a prisoner kept on breathing.

Q Tell us about this case.

A After I found out about this, I called up the blockhouse. I couldn't reach the doctor, but I did reach the adjutant, and he told me that I should give him one more shot, which also happened.

Q In what condition was this prisoner who was still breathing?

MR. DENSON: I object to that, may it please the court, on the ground that it calls for a conclusion of this witness, and no foundation has been laid to sustain this conclusion.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. ENGELHORN:

Q Mr. Wolf, do you still remember the interrogation of the witness Wittig? Do you remember that this witness Wittig said that you gave a mercy shot to a prisoner who was not yet dead?

A Yes, that was the mercy shot about which I spoke a few minutes ago.

Q That is the same case?

A Yes, that is the same case.

Q Now, please tell us the details when an execution by hanging was carried out.

A That followed the same sequence, except that a prisoner had to climb up on the ladder to the gallows, and the noose would be put around his neck, and then the

ladder would be taken away immediately.

Q What was the effect there?

A I inquired about that with some doctors, and they said that immediately a blood hemorrhage would enter the brain, and the person would go unconscious immediately, and death would be instantaneous.

Q Was there any incident which took place at any hanging?

A No.

Q Where were the death sentences executed?

A The death sentences were carried out in the yard of the arrest building.

Q Were these executions public, or were only those people present who were there by virtue of their official positions?

A They were not public. Only the official people were there.

Q From when to when did you hold this job in the cell building?

A From the beginning of June until the 18th of December, with a break of three or four weeks when I was sick — I don't know the exact time any more — and times when I took various trips.

Q What caused your job to change on the 18th of December?

A I had to look up a hospital in Berlin on an official trip because I was sick.

Q Did you stay in the hospital for a considerable time then?

A From the 20th of December until the 28th of December, I was in the hospital, and didn't arrive back in Flossenburg until the middle of March because of the bad rail connections.

Q Did you go back to the cell building then?

A Yes. I only did work there from time to time then.

Q Did you ever carry out an execution?

A No, I didn't carry out any.

Q Were you present at executions?

A Yes, once.

Q Do you remember this case?

A Yes.

Q What was involved?

A That was an execution by gunfire. I had to bring out the 4th or 5th delinquent, and I was shot in the right hand by Technical Sergeant Haubold.

Q Did you ever take part in any other executions?

A Not in the yard of the arrest building, but back there on the shooting range when two foreign prisoners were officially shot to death.

Q Please tell us about that. What kind of prisoners were they?

A They were probably two Englishmen. They were in arrest in civilian clothing; therefore, they were civilians, and were officially shot to death on the shooting range back there near the crematorium, at intervals of time, one in June or July, and the other later.

Q How did it happen that these people were treated differently, that they were not shot in the yard of the arrest building?

A Because official executions by gunfire were not carried out in the yard of the arrest building.

Q Please tell us how this official shooting by gunfire took place.

A This execution by gunfire took place with a shooting detail of non-commissioned officers with a strength of six to eight men, and it took place together with military honors. These people also had their verdict read aloud to them, and they could choose to die with a bandage over their eyes or not, as they pleased. The order to fire was given, and then the execution was carried out, and many officers were present.

Q What kind of officers were they?

A S. S. officers, as well as Wehrmacht officers.

Q Did it occur like that in the case of both of these executions?

A Yes, that was the case with both executions.

Q Did anything particular take place on the occasion of one of these executions?

A Yes.

Q Tell us about it.

A The last one shook my hand just before he was executed, and thanked me in the name of himself and his comrades in the bunker for the treatment which I had given them in the bunker, and told me that I had made his stay very light for him, very easy.

Q Mr. Wolf, do you remember the individual executions? Do you remember an approximate number? Can you give the nationalities of the various people who had been executed?

A When I was interrogated, I was supposed to estimate to my best ability how many cases of death due to special treatment had occurred, and I estimated that between 160 to 200, and I determined that 131 cases of special treatment. These executions had been carried out according to the camp records, which have since stood at my disposal here. That is, of course, in the period of time between the beginning of June until the 18th of December, 1944, and fifteen of those were given special treatment in outside camps.

Q How many in Flossenburg?

A In that period of time, 116 in Flossenburg, and among those, 106 Russians, eight Poles, two Germans, and among all these, one single woman, never children, and nobody was of Jewish faith.

Q How did you find that out, Mr. Wolf? How did you get those numbers?

A I looked at the camp records. I looked through them, and picked out the names, numbers and dates of birth of all the people who died because of special treatment.

Q Is this summary you have without any gaps? Is it complete?

A I believe that I can say that, yes.

Q Were you able to determine the names and dates of birth of the people who had been executed?

Ta 612
11/19
pm-22
Floss.

A Yes. I wrote the first and last name of the prisoner, the date of birth, and the day when he was executed. I wrote that all out.

MR. McKAY: May it please the court, Dr. Engelhorn, German counsel, has asked me to assist him in handling these documents. I hand a list of names to the reporter which I would like to have marked for identification as Defense Exhibit 49.

(Whereupon the document referred to was marked Defense Exhibit 49 for identification.)

MR. McKAY: I hand a chart to the reporter which I would like to have marked as Defense Exhibit 50 for identification.

(Whereupon the document referred to was marked Defense Exhibit 50 for identification.)

MR. McKAY: At this time the defense offers in evidence the document which has been marked as Defense Exhibit 49 for identification, being the list of persons executed at Flossenburg, as prepared by the accused Wolf now on the stand, and as taken from the camp rolls which are in evidence as Prosecution Exhibits 12 - 19 inclusive.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objection, sir.

PRESIDENT: Subject to objection by any member of the court, the court will receive Defense Exhibit 49 in evidence, and give it such weight as the court sees fit.

(Whereupon the document heretofore marked Defense Exhibit 49 for identification was received in evidence as Defense Exhibit 49, is attached hereto and made a part of the record.)

Ta 612
11/19
pe-23
Floes.

MR. McKAY: At this time, the defense offers in evidence Defense Exhibit 50 for identification, which is a chart prepared by this witness, also based upon Prosecution Exhibits 12 - 19 inclusive, which are the camp rolls, and a compilation of the figures as contained in the list as accepted by this court as Defense Exhibit 49.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objection, sir.

PRESIDENT: Subject to objection by any member of the court, the court will receive Defense Exhibit 50 in evidence, and give it such weight as the court sees fit.

(Whereupon the document heretofore marked Defense Exhibit 50 for identification was received in evidence as Defense Exhibit 50, is attached hereto and made a part of the record.)

PRESIDENT: The court will recess for half an hour.

(Whereupon the court recessed at 1500 hours.)

CAMP DACHAU, GERMANY
20 November 1946

AFTERNOON SESSION (Continued)

(Whereupon the court reconvened at 1540 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the court are present; all the personnel of the prosecution are present except Mr. Pinter, who is absent on business for the prosecution; all the personnel of the defense are present; all the accused are present except Losch, Oswald, and Weilbach, who are sick in the hospital, and Mathad, who is conferring with counsel, the interests of those named accused who are absent being taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in the case, will they please leave the court room.

PRESIDENT: Continuation of direct examination, Doctor Engelhorn.

EKHARD WOLF, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY DOCTOR ENGELHORN:

Q Mr. Wolf, I now show you a document which has been marked as Defense Exhibit No. 49, and ask you what that is?

A That is an extract from the camp books of all prisoners who had been killed by special treatment.

Q During which period of time did that happen?

A These people were killed during the period of time from the 1st of June until the 18th of December, 1944.

Q What kind of documents did you use to make up this roster?

A The camp books, which were used as exhibits in this court. I do not know the number.

Q What do these numbers mean in the first column?

A All the numbers in the first column are the prisoners' numbers.

Q Were these contained in the camp books?

A Yes, they were.

Q And the second column?

A The second column shows the nationality of the prisoners.

Q The third one?

A The last name.

Q The fourth column?

A The first name.

Q The fifth one?

A The dates of birth.

Q And the sixth one?

A The date of execution.

Q Was all this taken from the camp books?

A Yes, I think it was done properly.

Q Were all these people male or female?

A No, not all of them were males. There was one woman executed during the time I was in office, that is, from June 1 to December, 1944. And the person in question was a German woman born in Berlin.

Q Can you give me the name of the woman?

A The name of this German woman was Ilse Dumalsky, born on the 16th of January, 1920, in Berlin. Due to the fact that it was something unusual that a woman was executed, I still remember the cause of execution. She had been convicted because of espionage.

(Wolf-direct)

I now hand you a second document which has been marked Defense Exhibit No. 50, and ask you what that is?

A That is a list of executions in the sequence of the month and days. It also covers the period of time from June until December, 1944.

Can you tell us how many executions took place during each month on the basis of this extract?

A Yes, I can, and I can even tell the nationalities.

Q Please state so.

A In June, thirteen Russians; in July, 3 Russians and 3 Poles; in August, 16 Poles and 53 Russians; in September, 10 Russians; in October 12 Russians and 2 Germans; in November 5 Russians, 2 Poles, 2 Germans; in December, 10 Russians.

PRESIDENT: Doctor, the court cannot see any reason for going into all these details unless you are going to connect them with the main issue.

DOCTOR SPEELHORN: Well, I am finished.

QUESTIONS BY DOCTOR SPEELHORN:

Q Were you present at all these executions?

A No, I already said I wasn't present when I was on trips or when I was sick.

Q Can you say approximately at about how many executions you were not present?

A At about thirty or forty I was not present.

DOCTOR SPEELHORN: No further questions.

MR. MC KAY: I would like to ask some questions on behalf of Accused No. 48, Seibach.

QUESTIONS BY MR. MC KAY:

Q Mr. Olf, I hand you Defense Exhibit No. 50 and call your attention to the fact that in the month of August, 1944, you show some

53 Russians executed.

A Yes.

Q Do you recall why those Russians were executed?

A Yes.

Q What was the reason?

A Those were the people who went on mutiny in Muelsen.

Q Can you explain to the court whether all of those 53 Russians were executed at the same time?

A Not on the same day, but throughout the month of August.

Q Can you recall who was actually present during the execution of those 53 Russians?

A Yes. The commandant, the adjutant, the roll call leader, an interpreter, Staff Sergeant Weihe, and myself.

Q Are you sure these were the only people present during those executions?

A Yes.

MR. MC KAY: That is all.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You say you automatically became a member of the party in 1935?

A In 1937.

Q Did you automatically become a blockleiter in 1937?

A In 1937 or 1938, yes. That was when I was transferred from the SA.

Q And they automatically made you a blockleiter, is that correct?

A Yes. The zellenleiter came to see me and told me I should be the blockleiter, and I told him I was a member of the SA and at the same time I could not possibly be a blockleiter. Thereupon I was excused from

53 Russians executed.

A Yes.

Q Do you recall why those Russians were executed?

A Yes.

Q What was the reason?

A Those were the people who went on mutiny in Muelsen.

Q Can you explain to the court whether all of those 53 Russians were executed at the same time?

A Not on the same day, but throughout the month of August.

Q Can you recall who was actually present during the execution of those 53 Russians?

A Yes. The commandant, the adjutant, the roll call leader, an interpreter, Staff Sergeant Weihe, and myself.

Q Are you sure those were the only people present during those executions?

A Yes.

MR. MC KAY: That is all.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You say you automatically became a member of the party in 1935?

A In 1937.

Q Did you automatically become a blockleiter in 1937?

A In 1937 or 1938, yes. That was when I was transferred from the SA.

Q And they automatically made you a blockleiter, is that correct?

A Yes. The zellenleiter came to see me and told me I should be the blockleiter, and I told him I was a member of the SA and at the same time I could not possibly be a blockleiter. Thereupon I was excused from

the SA as a blockleiter.

A Yes, I was.

Q You became a member of the party in 1935, did you not?

A No, that is an error. I already told Lieutenant Colonel Shaw about that. I told him it was my mistake when I put 1935 on my questionnaire and I corrected it here in Dachau.

Q When you filled out your fragebogen you stated it was 1935, is that correct?

A Yes.

Q That was on August 17, 1945, is that correct?

A I don't know that exactly.

Q What was the size of the cells that the prisoners were put in who underwent severe arrest? Not the SS, but prisoners.

A The size of the cells was approximately the same size as in Bunker 1 here in Dachau.

Q Describe the size in meters.

A They were about three meters, fifty centimeters to four meters long, three meters wide, and two meters, eighty centimeters to three meters high. There were toilets in there, fresh water faucets and central heating.

Q Was that the same size as the other cells in the block in which you worked?

A Yes, they were the same size.

Q How many men did you put in one of those cells?

A There were sometimes six persons in one of these cells. That was during the period of time when these people from Muelsen were there.

Q Before these prisoners were actually executed there in the cell yard, is it not a fact that they were taken to the shower room, where

they were first undressed?

A That is what I stated, yes.

Q There, their hands were either handcuffed behind them or tied with wire, is that correct?

A Yes.

Q And after that was done, they were told they were going to be executed, is that correct?

A The sentences were read to them.

Q You brought them out of the blocks to the bath room, did you not?

A They were in the bath room already.

Q You brought them from the cells which they occupied to the bath room, did you not?

A Not always. Sometimes they were taken down there by the assistants, who were prisoners.

More often than not you took them from their cells to the bath room, did you not?

A Yes.

Q And you tied their hands behind them, did you not?

A No, I didn't do that.

Q You never did that?

A No.

Q Then, after the prisoners were brought to the bath room and they were told they were going to be executed, you took them out to the court yard, did you not?

A Yes.

Q And you lined them up against the wall in the northwest corner

(Wolf-cross)

of the courtyard, did you not?

A Yes, individually.

Q Then you took a small calibre rifle .22 and shot them in the back of the neck, did you not?

A Yes.

Q Approximately how many did you shoot that way?

A Probably 80.

Q Now, on the hangings, Wolf, prisoners were led to the gibbet by you, were they not?

A Yes.

Q You conducted them up to the scaffold, did you not?

A Yes, I did that, too.

Q You made them climb one side of the ladder and you climbed the other side, is that correct?

A Yes.

Q You put the noose around their necks, did you not?

A Yes.

Q Then you pulled the ladder out from under them, did you not?

A Yes, and we swapped. Once in a while Weihe was the one who did it, and sometimes I would do it.

Q You took turns doing it, is that correct?

A Yes.

Q Wolf, I show you a photograph marked Prosecution Exhibit No. 33 and ask you to state whether that shows a view of the corner of the yard in which the prisoners were shot?

A Yes, that's it. (Indicating)

Q I show you another photograph marked Prosecution Exhibit No. 34, and ask you to state whether that shows the wall against which the prisoners

were shot?

A I saw this photograph already at the time we were allowed to see them, and they were given to us to take a look, and can't say for certainty whether it was the one or not.

Q Does it resemble the wall at all?

A There is a certain similarity, but I can't say exactly.

Q How many of those hangings did you participate in?

A Approximately 10 or 15, I am not certain.

PROSECUTION: No further questions.

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR ENGELHOFEN:

Q Mr. Wolf, do I understand correctly that you said the cells in the arrest building in Flossenburg are the same size as the arrest building cells in Dachau?

A Yes, the ones in Bunker No. 1, not the ones in Bunker No. 2, where two men are confined now.

Q How many prisoners do the cells in Bunker No. 1 occupy?

A Two men, always two men. As long as we were in Bunker No. 1 there were two men in each cell, but when I got to Dachau we were twenty-two people in one cell, but only temporarily, from 1700 hours up to 1100 hours the following day. But that was only temporary.

Q If I understood you correctly you said that six people were confined in one cell when this affair in Mauthausen happened?

A Yes, but this was only a temporary matter.

Q How many people were put in one cell normally?

A Two.

DOCTOR ENGELHOFEN: No further questions.

(Wolf-redirect)

PRESIDENT: Recross.

PROSECUTION: Nothing, sir.

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL SCHLEY:

Q I understood you to say you executed 80 people by shooting and 10 or 15 by hanging, is that true?

A Yes.

QUESTION BY LIEUTENANT COLONEL BURCHAM:

Q How long did you remain at Flossenburg?

A Until April 20, 1945.

QUESTIONS BY LIEUTENANT COLONEL SCHLEY:

Q Did I understand you to say it was a privilege of the prisoners to get SS food?

A Well, only the so-called privileged prisoners received SS food.

Q Was it considered a privilege for those certain individuals to get SS food?

A Well, it was a certain privilege that had been ordered by headquarters.

QUESTIONS BY THE PRESIDENT:

Q What was your official status or duty at the time you participated in those various executions?

A I was an SS private.

Q What were your ordinary duties at that time?

A I had to take care of the administration of the arrest building, all the paper work, and had to provide the food and take prisoners to interrogations, and then these unfortunate executions.

Q Do you wish to state to the court just why, in your opinion, you were selected to participate in these executions?

(Self-court)

A I don't know that. I repeatedly refused to do it, but I was told by the adjutant that he could not use these two sergeants who had volunteered for the job because of special prisoners. I suppose he thought I had better manners.

Q What do you mean by the statement that you repeatedly refused?

A In the beginning when I was appointed by the adjutant to leave with my old detail, and after I found out that there were two technical sergeants that had volunteered for that job, I again asked him, and I was rejected again. Then I applied to the commandant personally and I was told by the commandant that if I wouldn't quit constantly asking the adjutant about my transfer, he would take this for a refusal to carry out orders and mutiny, and he usually bumped off these people himself, or would have hanged them openly in camp. In Spring, 1945, January, February, or March, he made the same remarks in the movie theatre in front of all the non-commissioned officers.

Q Whom are you referring to when you mention that he would bump these individuals off?

A That was when I made my fourth request to the commandant. My previous requests I addressed to the adjutant, but the fourth time I went to the commandant.

Q Who was commandant?

A Lieutenant Colonel Koegel.

Q The adjutant you are referring to is Baumgartner?

A That's right.

Q During the time you were conducting these executions, who was camp eldest?

A I don't understand that. Prisoner, you mean?

Q Who was camp eldest at the time you were participating in these executions?

(Wolf-court)

A Uhl.

Q Was it not generally the duty of the camp eldest to take charge of these executions?

A No, there is a difference between the public executions in the roll call place and the executions in the arrest yard. Probably there were prisoners present when there were public executions in the roll call place.

Q Did you participate in any public executions?

A Yes, but not in my capacity as supervisor of the arrest building. I had to participate in my capacity as block leader. All the block leaders and all the prisoners had to be present.

QUESTIONS BY THE LAW MEMBER:

Q What was the number of the cell that the Prince of Hesse was in?

A The prince didn't have a cell. He was quartered in a room of the guard unite adjacent to the orderly room, but of course the door was locked.

Q As you entered the building, the main door was in the center of the arrest building, was it not?

A Yes.

Q He was quartered in the arrest building, was he not?

A Yes.

Q As you entered the arrest building to go to Prince of Hesse's room, did you turn right or left?

A Left.

Q How far up the hall did you go?

A Just opposite on the other side of the hallway, that's where

(Wolf-court)

the orderly room was, and the adjoining room was the Prince of Hesse's room.

Q How far was that from the main entrance of the building?

A Three and a half, four meters.

Q You said he went outside to air himself. I don't know just where he went to air himself.

A He was allowed to sit in the yard. There was a partition made out of wood and there was a straw mattress behind this wooden partition, and he was allowed to lie down.

Q How did he go out to the yard? Did he come out the front of the building?

A No, he took the main entrance.

Q He came out the main entrance, which was in the front of the building?

A Yes.

Q Did he lie out in this large court yard, or where did he go?

A It was in an opposite part of this portion of the yard.

Q Do you mean the opposite end of this court yard?

A Yes, from this part of the arrest yard.

Q That part of the yard was all open, was it not?

A Yes.

Q Inside this arrest building there were a number of doors that separate the halls into partitions, are there not?

A Cells?

Q That separate the halls into sections?

A Well, the hall wasn't separated into any partitions. It was one long hallway as well, as the hall didn't have any partitions.

Q Along the hallway there were doors you could shut, were there not?

(Wolf-court)

A Cell doors, yes.

Q I am not talking about cell doors, I am talking about doors that separate one part of the hall from the other part of the hall.

A Yes, there were some iron gates.

Q Were those doors that separated one end of the hall from the other end of the hall kept locked?

A No, they were open all the time, with the exception of these parties. When they were absent, that is, when they were not in the building. Then they had to be locked.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Redirect?

DOCTOR ZMGELHOEN: No further questions.

MR. MC KAY: No further questions.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You stated you took these prisoners over to interrogations, is that correct?

A Yes.

Q You took them over to interrogations at the political department from June until December, 1944?

A Yes, also the political department.

Q Did you take them over to the political department for interrogation from the time you returned after being ill up to the time you left the camp?

A No, not during that time.

(Self-recross)

Q How much schnapps did you get for these executions you participated in?

A I don't know. Now and then I would get some rum.

Q Did you get more rum for shootings or for hangings?

A I think it was the same quantity of rum for both ways of execution.

Q Did you get a certain amount for each individual, or for the day's work?

A That varied.

Q How many cigarettes did you get for each execution?

A Five cigarettes.

Q Five cigarettes for each man executed, is that correct?

A Yes, for every execution, not for every man executed.

Q Was the ration the same for those who were shot as for those who were hanged?

A Yes, they were the same.

PRESIDENT: Are there any further questions by the court? Apparently not. Redirect?

DOCTOR ENGELHORN: Nothing further, sir.

MR. MC KAY: No further questions.

PRESIDENT: The court understands the defense has finished with this witness?

MR. MC KAY: That is correct, sir.

PRESIDENT: Wolf, do you desire to make any explanation to the court or any statement to the court at the present time?

ACCUSED WOLF: Yes, I would like to, Mr. President.

PRESIDENT: Go ahead.

ACCUSED WOLF: My activity in the arrest building could not be a violation of the laws and usages of war or the International Geneva Convention, because in the first place, I was ordered to do this kind of duty, in spite of my repeated objections and requests. In the second place, I was not told about the pursuance of a common design, and so that is unknown to me. In the third place, I was of the firm and honest conviction that all these cases involved were criminal cases, and the people had been convicted on the basis of legal trials. I, as an ordinary soldier, did not have the authority nor did I have the power to examine the correctness of the individual cases. Due to the rank I held, I could not give nor refuse any order, but had to do what I was ordered. If I had refused to carry out these orders, I would have had to pay the supreme penalty according to the laws of war, without making the sentence or the executions of the people concerned null and void. I am not responsible for the death of the people executed. Before God and my own conscious, I do not consider myself a war criminal nor a murderer nor a conscious participant in crimes. I am convinced that any other soldier of any other Army would not have acted differently if he had been in my place. I am sure that all the statements I make are according to the truth and honest, and that I make them honestly. Only due to the fact that I am in confinement and all my superiors do not take responsibility upon their shoulders, nobody is here to testify to the truth of my statements. I could not have acted differently, because I was too worried about my family. And now I am awaiting the sentence of the high court.

PRESIDENT: Does the defense have anything further?

MR. MC KAY: Nothing further.

PRESIDENT: The witness will be excused and will resume his place in the dock.

(Whereupon the witness left the stand and resumed his place in the dock.)

MR. MC KAY: The defense at this time recalls the witness Rudolf Schmidt to the stand on behalf of the accused, Schubert. Mr. O'Connor will take over.

RUDOLF SCHMIDT, formerly a witness for the defense, was recalled as a witness by the defense, and being reminded that he was still under oath, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Give your name in full, please.

A Rudolf Schmidt.

Q Mr. Schmidt, you have already testified in this case, have you not?

A Yes, on behalf of the accused, Jakubith.

Q At that time you gave the court a history of the time you spent in Flossenburg, when you came and when you left?

A Yes.

Q Will you very briefly state to the court what your duties were at Flossenburg?

A I was a technical stone mason there and I had technical supervision of the factory.

Q Is that the Messerschmitt factory?

A No, I didn't have anything to do with that.

Q What factory?

A The stone quarry.

Q Who was your immediate superior?

A Mr. Schubert.

Q What is Mr. Schubert's first name?

A Alois.

Q Will you look in the dock and see if you can identify him?

A Right over there (indicating).

MR. O'CONNOR: The witness has identified accused No. 44 as

Schubert.

QUESTIONS BY MR. O'CONNOR:

Q What were your relations with Mr. Schubert at the time you were in Flossenburg?

A My relations?

Q Yes.

A Well, I would like to say that we were on very good terms as far as our duties were concerned, but we never went together privately, that is, as friends.

Q Where was your office with respect to Schubert?

A My office was immediately next to Schubert.

Q On an average, how often did you see Schubert each day?

A I saw him daily with the exception of those days he was on a trip, I would say every thirty minutes, but of course that depended. Sometimes he was in the building and sometimes he was outside. At any rate, I saw him several times each day.

Q Did you have a chance to see what type of association he had with prisoners in the camp?

A Yes, I was able to make this observation.

Q Do you know what connection he had with the SS at that time?

A The immediate camp commandant was the superior of Schubert, as plant director.

Q Do you know what Schubert's duties were in the camp or in the quarry?

A He was works manager.

Q Do you know Schubert's reputation among the prisoners during the time you were there?

A Yes, I do.

(Schmidt-direct)

Q What was it?

A It was a good reputation.

Q Do you know if he ever beat prisoners?

A No, I never saw nor heard of such a thing.

Q Do you know if he ever mistreated them?

A No, I couldn't imagine that.

Q Do you know of any prisoner who was executed as a result of any action taken by Schubert?

A No, I never heard of anything about that. If it would have been so, I would have found out about it from the prisoners who worked in my office.

Q What type of prisoners worked in the quarry? Were they prisoners, SS men, or what were they?

A The majority were civilians. Part of them were transferred to the SS.

Q Do you know where these civilians came from?

A They were from Flossenburg.

Q What type of work did they do?

A It varied. Some of them were drivers and some worked in the quarry. That's all. I think there were about six or seven of them.

Q Will you state to the court whether these civilians were under the jurisdiction of Schubert?

A Yes, the civilians were under the jurisdiction of Schubert.

Q Mr. Schmidt, do you know whether Mr. Schubert was under the jurisdiction of the camp or of the factory?

A How am I to understand that?

Q Please explain to the court whether he had any jurisdiction over

the camp or whether it was limited to the technical management of the factory?

A He didn't have any jurisdiction whatsoever as far as the camp was concerned. He was only responsible for the quarry.

Q Mr. Schmidt, did you ever have occasion to go into the warehouse in the quarry?

A The warehouse, yes, I went there daily.

Q Daily?

A Daily, yes.

Are you familiar with the physical characteristics of the terrain and the buildings adjacent to the warehouse?

A Yes.

MR. O'CONNOR: Will the reporter mark these Defense Exhibits No. 51 and No. 51-A?

(The documents referred to, being a diagram of the warehouse and the English translation thereof, were marked Defense EXHIBITS NOS. 51 and 51-A for identification.)

PRESIDENT: The court will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 20 November 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um ..... Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

FLOSSENBURG

CASE RECORD. Pages 6925 - 6986, Incl. First Duplicate Copy

Case No.

[redacted]

*General

Place DACHAU, GERMANY

Date 20 November 1946
0900 - 1635 hours

[redacted]

WITNESSES: SCHMIDT, Rudolf
JAKUBITH, Alois
HAUSER, JOSEF

Prosecutor

Defence Counsel

Interpreter

Reporter

Accused FRIEDRICH FLICK, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

20 November 1946 0900 - 1635 Hours Pages 6925 - 6986 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
SCHMIDT, Rudolf	6925	6936 6940	6952 6960 6963 6964		6953 6961
JANUBITH, Alois	6964	6971			6973
HAUSER, JOSEF	6974	6978			6980

EXHIBITS

No.	Description	Identification	In Evidence
D-51	Diagram of warehouse and surrounding workshops		6926
D-51-A	English translation of diagram		6926
Court-5	5 pages, consisting of letter of transmittal, 2 charge sheets, sheet of findings and sentence	6982	

Camp Dachau, Germany

20 November, 1946

MORNING SESSION

(Thereupon court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Lieutenant Colonel Wilson and Mr. Hall, who are absent on business of the accused; all the accused are present, with the exception of Eisbusch, Oswalt, and Loesch, who are ill, and Herz, who is conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses, will they please leave

RUDOLF SCHMIDT, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified through an interpreter as follows:

DIRECT EXAMINATION (Continued)

PRESIDENT: Continuation of direct examination, Mr. O'Connor.

MR. O'CONNOR: If the court please.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schmidt, at the close of the session yesterday, you stated that you were familiar with the warehouse in the quarry and the physical characteristics of the shops and surrounding buildings, is that correct?

A Yes.

Q I hand you a paper which has been marked Defense Exhibit 51 for identification and ask you if you know what that is.

A That's a warehouse.

Q Is it a diagram of the warehouse?

A Yes, it is a diagram of the magazine of the warehouse with the workshops.

Q By whom was it prepared?

A That was prepared by me.

Q At whose request?

A At the request of the defense.

Q Now, did you get the information that appears on Defense Exhibit 51 for identification from your own knowledge of the warehouse and the surrounding buildings?

A Yes, from my own knowledge.

Q You are a professional draftsman, are you not?

A Yes, I had the opportunity to go in this building every day.

Q I now hand you a paper which is marked Defense Exhibit 51- for identification and ask you what that is.

A That is also a diagram of the warehouse, only the denominations are in English.

MR. O'CONNOR: At this time the defense offers in evidence Defense Exhibits 51 and 51-A, the same being diagrams of the warehouse and the surrounding workshops as prepared by this witness.

PRESIDENT: Any objection on the part of the prosecution to defense Exhibits 51 and 51-A?

PROSECUTION: No objection, sir.

PRESIDENT: Subject to objection on the part of any member of the court, Defense Exhibits 51 and 51-A are received by the court in evidence and will be given such weight as the court sees fit.

(The documents heretofore marked Defense Exhibit Nos. 51 and 51-A for identification were received in evidence as Defense Exhibit Nos. 51 and 51-A, are attached hereto and made a part of the record.)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schmidt, I now hand you Defense Exhibit 51 and ask you to examine

it and state where the windows are in the magazine of the warehouse.

A The windows of the magazine are looking towards the garage that is on this side over here (indicating).

Q Will you please take a pen and mark the letter "W" at the place where the windows are in the warehouse?

A (Indicating)

Q Will you please do the same thing on Defense Exhibit 51-A?

A (Indicating)

Q Mr. Schmidt, if a man looked out that window, what would he see?

A He would see the garage and part of the work hall and the road which leads to a neighboring village.

Q Would it be physically possible for him to see the stairway which you have marked on the exhibit?

A No, impossible.

Q Would it be physically possible for him to see the walk that you have marked on the exhibit?

A No, not that either.

Q Was the warehouse in this same condition in March, 1944?

A Yes, that is drawn in the condition of 1944.

PRESIDENT: I think, Mr. O'Connor, you might have the witness come before the court so we can notice what you are referring to.

MR. O'CONNOR: If the court please, I am referring to the windows in the warehouse which appear at the top of this picture with a "W" and the staircase appears over here (indicating) on the lefthand side of the picture and the walk below that in the lower lefthand corner of the picture.

(Thereupon the witness left the witness stand and stood before the court.)

PRESIDENT: The court would like to have the previous questions and answers read with reference to Defense Exhibit Number 51.

(Whereupon the record was read by the reporter as follows:

"Question: Mr. Schmidt, I now hand you Defense Exhibit 51 and ask you to examine it and state where the windows are in the magazine of the warehouse.

"Answer: The windows of the magazine are looking towards the garage that is on this side over here (indicating).

"Question: Will you please take a pen and mark the letter 'W' at the place where the windows are in the warehouse?

"Answer: (Indicating)

"Question: Mr. Schmidt, if a man looked out that window, what would he see?

"Answer: He would see the garage and part of the work hall and the road which leads to a neighboring village.

"Question: Would it be physically possible for him to see the stairway which you have marked on the exhibit?

"Answer: No, impossible.

"Question: Would it be physically possible for him to see the walk that you have marked on the exhibit?

"Answer: No, not that either.

"Question: Was the warehouse in this same condition in March, 1944?

"Answer: Yes, that is drawn in the condition of 1944.")

PRESIDENT: Go ahead, Mr. O'Connor.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schmidt, what is the shop right next to the warehouse?

A It is our workshops, electrician shop, plumber shop and locksmith shop.

Q Please state to the court the distance in meters between the two buildings.

A The way between the two buildings is just as wide that a car can drive through and there is an embankment, which in my estimation is two and a half meters wide.

Q Do you mean that the distance between the two buildings is two and

one-half meters wide, or two and one-half meters besides the width of the car?

Q Mr. Schmidt, what is the shop in the warehouse building right next to the magazine?

A That is a carpenter shop.

Q If a person went to a window in the carpenter shop and looked out there, would it be physically possible to see the staircase which you have marked on Defense Exhibit 51?

A No, he can't see the staircase but he can see a person who is just climbing up the last steps; the staircase proper is not to be seen.

Q Could he see this walk that you have marked on the exhibit?

A Just a very short stretch, only the width of the drive.

Q How wide is the drive?

A Two and a half to three meters.

Q How wide is the walk?

A Well, that is what I mean by drive. You mean this walk?

Q The walk you have marked on the exhibit.

A At the most, two meters.

Q Mr. Schmidt, do you know whether or not there were any regulations which were in effect in the warehouse during 1944 with respect to prisoners being allowed to go about freely in the warehouse?

A There was a regulation that nobody could enter a room without permission and there was a counter at the door, to which people had to go in case they needed some tools, so that it would not be necessary to enter the room.

Q Were prisoners allowed in the carpenter shop?

A Not without permission.

Q From whom did they have to receive that permission?

A From the works management but it happened on very rare occasions,

and then it must have been a very important thing which he had to handle in the room.

Q Did that same regulation apply to capos?

A Yes.

Q Yesterday you mentioned that most of the employees in the factory were civilians under the jurisdiction of Schubert, is that correct?

A Yes, that's right.

Q Were there any civilians working in the factory who were not under his jurisdiction?

A No, with the exception of the employees of the Messerschmitt works.

Q What about them?

A They were under the jurisdiction of Regensburg.

Q How many civilians did that amount to?

A I can't give you a definite number, but in my estimation, about 30, but not any more toward the end.

Q What was the name of the man to whom they were responsible?

A The one in Regensburg, I have no idea because I did not bother about matters concerning Messerschmitt.

Q While you were in Flossenburg Messerschmitt factory, did you know a man by the name of Riess?

A Yes, there was an engineer Riess.

Q Did he work in the factory in the quarry or did he work in Regensburg?

A He was in the Messerschmitt detachment in Flossenburg in the quarry.

Q Will you state to the court what you know about Schubert's relations with the commandant Koegel?

A There was always a strong tension in the relationship between Schubert and the commandant Koegel.

(Schmidt-Direct)

Q Do you know the reason for this?

A Yes, the reason was as I already mentioned yesterday, that the respective commandant was the director of the work beginning in 1942 and there were always arguments about the fact that the works management, Mr. Schubert, could not assign laborers as he wanted and he could not transfer people from one place of work to another without the permission of the camp headquarters.

Q Did Schubert have any authority whatsoever over prisoners?

A No.

Q Do you know if Schubert issued any orders to the civilian personnel in the factory regarding the way they were to treat prisoners?

A Every month all the employees and the laborers had to sign a document to the effect that every prisoner in the factory was to be handled decently, that every mistreatment was forbidden, that prisoners had to be addressed in the second person plural, and whoever did not comply with these regulations would be put into protective custody; and these declarations Schubert had to turn over to the commandant Koegel.

Q Was that declaration issued by Schubert or Koegel?

A No, I meant to say Schubert had to sign this same declaration to commandant Koegel. The same order given to the employees and laborers was issued by the works management.

Q Were you in a position to see whether or not prisoners had access to Schubert's office?

A Yes.

Q Did he allow prisoners to come in and see him?

A Yes.

Q Do you know of any special instances where prisoners took their troubles to Schubert?

A Yes. The chief troubles were about clothing and food during the wintertime or when transports were being composed and sent away. Many prisoners came to see Schubert and asked him to leave them in Flossenburg.

Q What did he do in those instances?

A He filed a request with headquarters and sometimes he was successful.

Q Do you know where Schubert lived?

A Yes.

Q Where?

A During the first period of time in the building where the office was and toward the end he was my neighbor.

Q Where?

A In Flossenburg.

Q In the village of Flossenburg?

A Yes, yes.

Q Do you know where he took his meals?

A In the restaurant Kuns.

Q Where is that restaurant?

A Right in the center of the village.

Q Mr. Schmidt, you still hold your position as mayor of Flossenburg?

A Yes.

Q You are a free man now, are you not?

A Yes, yes.

Q Do you know of anything else about Mr. Schubert about which you wish to tell the court?

A I would like to give a full picture.

Q Go ahead.

A I did not come to testify because of friendship for Schubert. I only want to help the court and the defense to clear this matter up and see

the truth. Since the 1st of June, 1942, when I came to Flossenburg, it was already mentioned yesterday, Schubert was my immediate superior and I had the opportunity to see him daily and to learn to know him privately and officially. In April or May, 1942, shortly before my arrival, the respective camp commandant of Camp Flossenburg was appointed director of the works, that is, superior of Schubert, although he did not have the slightest idea of technical and administrative work. This was to be based on the continuous differences which Schubert had with the commandant. The reputation of Schubert among the prisoners was good.

PROSECUTION: May it please the court, I object to this repetition.

PRESIDENT: Mr. O'Connor, have the witness avoid telling about that which has already come before the court.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schmidt, do you have anything to tell the court with respect to Schubert that you have not testified about?

A Yes.

Q Tell us nothing except which you have not already told.

A In 1943 we incidentally found out that a large transport was to leave the following day; that prisoners had to be drawn out of the works and had to be sent to some other place. Thereupon, Mr. Schubert immediately contacted headquarters so that he could keep his specialists who were skilled workers and were familiar with the work and that was promised. When I went through the various departments of the works the next morning I had to find out that our old prisoners had left and that new workers were assigned to replace them. The majority of the new assigned workers were sick and were invalids. Thereupon I went to see Schubert and told him that it would be better to close the whole shop if I had to work with these prisoners because he couldn't ask these people to work. Thereupon Schubert went through the

factory together with me and we took a look at the prisoners. Then Mr. Schubert made some arrangement that the people were removed from the factory and at once that was done. Furthermore, every prisoner who was employed in the factory had an opportunity to see the doctor in the morning or in the afternoon and to be brought to the hospital. There was an extra infirmary in the factory for this purpose.

Q Mr. Schmidt, I asked you awhile ago if you knew an engineer in the Messerschmitt by the name of Riess.

A Yes.

Q Do you know an engineer in the Messerschmitt named Riess who was in Regensburg?

A No, I only knew the one who was in Flossenburg but he was under the jurisdiction of the Messerschmitt of Regensburg.

Q Do you know what his relations were with Schubert?

A Once I had a chance to see one instance where I could notice a certain tension. As a rule you could get along with Riess. He reproached Schubert that it was his fault that the factory wasn't running smoothly. Thereupon, Schubert told him that there was no sense to it, -- after all, it didn't matter whether we were working for Hitler or for Stalin.

Q Is he the man who denounced Schubert to the Nazi Party?

A Yes.

PROSECUTION: If the court please, I object to the question on the ground that there is no evidence that he ever was denounced at any time.

MR. O'CONNOR: I will withdraw the question.

PROSECUTION: I also object to counsel leading the witness.

PRESIDENT: Mr. O'Connor, the court directs that you avoid leading the witness.

LIEUTENANT COLONEL SKIELVIG: The answer should be stricken.

PROSECUTION: I did not hear the answer that was made. I move to strike the answer on the same ground as the objection to the question that

was propounded.

MR. O'CONNOR: I will withdraw it.

PRESIDENT: The motion to strike on the part of the prosecution is granted. Hereafter he will get in his objection before the answer is given.

PROSECUTION: If the court please, there is sort of a mumble-jumble going on and I could not understand it. I was trying to follow it but I did not hear it.

PRESIDENT: If at any time the prosecution or defense fail to get an answer, the court will be glad to have it repeated.

MR. McKAY: The accused Lipinski requests to be removed to the bunker because of a headache.

PRESIDENT: The court will approve the matter.

(Whereupon the accused Lipinski withdrew from the courtroom.)

MR. McKAY: Let the record show that the accused Herz has returned to the dock.

PRESIDENT: The court wants to make it plain that if there is any difficulty at any time about the matter of interpretation or if the witness is not speaking loud enough, the court will be very glad to rectify the matter. Proceed, Mr. O'Connor.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schmidt, will you explain to the court what the net result was of the differences between Schubert and the engineer Riess.

A The engineer Riess reported Mr. Schubert to the ortsgruppenleiter in Flossenburg that he was not satisfied with the work output and the work in the plant, and that Mr. Schubert did sabotage work. This report was published by the ortsgruppenleiter during a gathering of the Home Guard.

Q Where?

A In Flossenburg.

Q What happened?

A The ortsgruppenleiter transmitted this report to the SS and police court. As far as I know, proceedings were initiated there and the result for Schubert was good insofar as the Americans arrived in the meantime.

Q Did Mr. Schubert go on the evacuation march?

A No.

MR. O'CONNOR: That is all.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q When did this take place, that Schubert was reported by Riess?

A That was during the winter of 1944-45.

Q At that time Schubert had been made a first lieutenant in the SS, had he not?

A No, that was in 1943. He only had the rank of a first lieutenant because he was a specialist.

Q He was made a first lieutenant in the SS, was he not?

A Yes, yes.

Q Now, when you stated a moment ago that the commandant was made a director in April or May, 1942, is it not a fact that the commandant of every camp where work was being done for the German Earth and Stone Works, the commandant was made a director?

A I don't know that. I didn't have anything to do with other camps.

Q How much do you know about Schubert's duties?

A Schubert had merely the duty to conduct the works properly.

Q By whom was Schubert employed in June, 1942?

(Schmidt-Cross)

A Schubert was ordered to Flossenburg as a staff sergeant of the SS. He did not get any pay from the firm here, only his pay from the SS as a staff sergeant, tech sergeant later on.

Q He continued to be a technical sergeant until he was made a first lieutenant, is that correct, in 1943?

A '43, yes.

Q During that entire period of time he received his orders from the commandant of the camp who was a lieutenant colonel in the SS, did he not?

A Well, the commandant only could give him orders as far as the prisoners were concerned, although technical and factual orders came from Berlin.

Q From the German Earth and Stone Works in Berlin?

A Yes.

Q In other words, the work so far as the technical phase of it was concerned, was governed by the German Earth and Stone Works through their technicians, is that correct?

A Technical and administrative matters, yes. For instance, the whole purchase was regulated by Berlin.

Q When you say "purchase", you mean purchase of what?

A Wood, iron, lumber, gasoline. All that had to be requisitioned in Berlin.

Q In other words, the machinery that was used in the quarry was furnished by the German Earth and Stone Works in Berlin, is that correct?

A Yes, that was provided by Berlin because Mr. Schubert had only a limited amount of money at his disposal.

Q Well, the German Earth and Stone Works in Berlin was operated by the main economics administration in Oranienburg, was it not?

A Yes, yes.

Q These individuals who worked as technicians for the German Earth

(Schmidt-Cross)

and Stone Works were paid in output premiums, were they not?

A Civilians, you mean?

Q Prisoners?

A No, there was a certain amount of money paid to the camp for the prisoners who worked in the quarry proper. I don't know the various amounts; that varied. For instance, skilled workers and unskilled workers and the pay of the stone masons was calculated according to the regulations throughout the entire Reich.

Q It was one of Schubert's duties, was it not, to determine how many and what quantity of stone would be produced in a given day?

A It was not Schubert's duty. It was my duty but I was responsible to Schubert.

Q Is it not a fact that Schubert would tell you how much stone was to be produced in a given period?

A No, that never happened, but we never demanded anything which was to be done in a definite period of time from the firms.

Q Who was it that determined the quantity of work that would be produced in a given day?

A Nobody determined it, --

Q In other words, --

MR. O'CONNOR (Interrupting): I object to the prosecution interrupting the man in his answer. I do not think he has finished his answer.

PROSECUTION: He said "nobody". I think that is an answer to the questions.

PRESIDENT: The court feels that the witness did not have an opportunity to complete his answer.

PROSECUTION: I have no objection to his saying anything else.

(Schmidt-Cross)

PRESIDENT: The witness will be given an opportunity to complete his answer.

THE WITNESS: (Continuing) Schubert demanded a certain output of work, in the first place, because of irregularity in the length of time during which work was being done, and in the second place, Schubert told me to give the people a chance to do a clean job and to do their job quietly.

QUESTION BY PROSECUTION:

Q Are you through?

A That's all.

Q Is it not a fact, Mr. Schmidt, that there was no fixed program with respect to the amount of work that would be done in a given period of time?

A No, there was none during the period of time I was in office.

Q So that this whole operation rocked along and as much work would be produced as happened to take place during a particular given period, is that correct?

A Yes. In the first place, most of the work which we did at that time was destined for the area of the party days of the whole Reich in Nuernberg and this area and all these buildings here would be constructed not before the end of the war and there were some minor orders we had, -- for instance, the bridges for the autobahn. No one ever used these bridges. They are still in Flossenburg.

PRESIDENT: Court will recess until ten-thirty.

PROSECUTION: I would like this witness to be directed not to converse with anyone during the recess.

PRESIDENT: The witness is directed not to converse with anyone during the course of this intermission. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Court will take a half hour recess.

(Thereupon at 1000 hours the court recessed until 1030 hours.)

CAMP DACHAU, GERMANY
20 November 1946

MORNING SESSION (Continued)

(Whereupon the court reconvened at 1040 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present except Mr. Pinter, who is absent on business for the prosecution; all the personnel of the defense are present except Mr. Hall and Doctor Engelhorn, who are absent on business for the accused; all the accused are present except Eisbusch, Losch, Mussfeldt, Lipinski, Oswalt, Pens, and Wurst, who are sick, and Geisberger, who is conferring with counsel, the interests of those named accused who are absent being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in the case, will they please leave the court room.

PRESIDENT: Continuation of cross examination, Mr. Denson.

RUDOLF SCHMIDT, recalled as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY THE PROSECUTION:

Q Before recess, Mr. Schmidt, I believe you stated there was no program which governed the output of stone for any particular period, is that correct?

A Yes, that is right. It was like this — whenever we gave a work order out we would have the party in question come to us and we would ask him up to what period of time he could have the work finished.

Q Was this done before the work was begun, or during the course of the work?

A No, before the work began.

Q So that, then, there were times when pressure was put on the prisoners to complete the work, is that correct?

A No.

Q That never took place at any time?

A If it was necessary to do a piece of work very quickly and one man couldn't do it himself, four or five would be put to help him.

Q Answer my question, please.

A Pardon?

PROSECUTION: Will the reporter please read my question?

(Whereupon the question was read by the reporter.)

THE WITNESS: No, we never did overtime.

QUESTIONS BY THE PROSECUTION:

Q So that pressure, then, was never put on the prisoners by anyone to complete a particular job at any particular time?

A No, no pressure —

MR. O'CONNOR: That is objected to as repetitious.

PROSECUTION: May it please the court, I would like to be heard on that for this reason: I am trying to get this one point over, and I do not think he has answered as yet. I would like to have his answer.

PRESIDENT: The objection is overruled.

THE WITNESS: No, no pressure was ever put on them in order to get a piece of work finished.

QUESTIONS BY THE PROSECUTION:

Q Do you remember testifying in this court on the 23rd of September,

(Schmidt-cross)

1946?

A Yes. On that occasion the question was asked if the prisoners were beaten when they didn't want to work. We didn't have any influence to make the prisoners work, to force them to work.

Q Just answer my question, if you please. At that time, on the 23rd day of September, 1946, is it not a fact that you were asked this question: "Will you describe to the court what you saw when Jakobith gave a prisoner a box on the ear?" Were you asked that question?

A Yes.

Q I will ask you if it is not a fact that you made this answer under oath: "For instance, whenever the work output fell, three or four men were missing and it was up to him to hunt for them all over the terrain. It is then explainable that that made him sore, especially since the commando leader was always putting pressure on him." Did you make that answer?

A I didn't have anything to do with the commando leader.

PRESIDENT: Will the witness answer the question. Do not beat around the bush.

THE WITNESS: I beg that the witness may have the question repeated.

(Whereupon the question was repeated by the interpreter.)

THE WITNESS: Yes, that's right.

QUESTIONS BY THE PROSECUTION:

Q So that pressure was put on the prisoners to get the work completed, is that not correct?

A Yes, but the people in charge of the work didn't put this pressure on.

Q The people in charge of the work -- who was in charge of the work?

A Mr. Schubert.

Q Was he the only man in charge of the work?

A Mr. Schubert was the only man who had charge of the work.

Q These people worked for Schubert, did they not?

A No, Mr. Schubert himself had been ordered there. He was only there as a soldier.

Q Just answer my question, Mr. Schmidt.

A They couldn't work for him because Mr. Schubert wasn't the owner of the projects.

MR. McKAY: Let the record show that Wurst, Eisbusch, and Musefeldt have returned.

QUESTIONS BY THE PROSECUTION:

Q On that theory, you didn't work for Schubert, either.

A Not in the sense that Schubert was my employer, no, but I worked for him in my capacity as subordinate.

Q And these other men worked for Schubert in their capacity as a subordinate, too?

A Yes, as subordinates.

Q When production wasn't up to what it should be, Schubert was held accountable for the failure, is that not so?

MR. O'CONNOR: If the court please, the testimony of this witness was that there was no schedule. The question is based on a misstatement of the testimony.

PROSECUTION: I do not object to the defense counsel's making a proper objection, but I do object to counsel telling the witness what to testify. The court will also recall the testimony here with respect to a conflict between Riess and Schubert, regarding production, and certain action taken against Schubert because of his conduct concerning production.

PRESIDENT: The objection is overruled.

THE WITNESS: Schubert was responsible to that in regard to Berlin, yes, but I can't remember that Schubert ever had difficulties because in the years 1942, 1945 the work production dropped from 23% down to 12 or 13%. I don't believe Berlin ever gave him trouble about that, because he would have said something about that to me if that had been the case.

QUESTIONS BY THE PROSECUTION:

Q How many men worked in the quarry from June of 1942 up to the end?

A About 1800 men in June, 1942, and that dropped at the end down to 130, 140 men, including all the handworkers.

Q Did it remain at that same low level until the end in April, 1945?

A Yes.

Q During that time were the duties of Schubert changed?

A No.

Q When did the Messerschmitt works begin production?

A That was during the winter, between 1942 and 1943. I believe it was December, 1942.

Q Is it a fact that Schubert had nothing to do with production in the Messerschmitt works?

A Schubert only had to see that the work was done. The staff of directors in Regensburg had charge of production.

Q When you say he only had to see that the work was done, what do you mean by that?

A He had to calculate the work that had been performed in Flossenburg, and see that the things were sent away.

Q What do you mean by "he had to calculate the work that had been performed in Flossenburg"?

A Schubert had to send a bill to Regensburg in order that the camp would get money to pay the prisoners.

Q Who was it that prescribed the amount of work to be done in the Messerschmitt works?

A The program was determined in Regensburg.

Q Who was it that was responsible to see that this program was met?

A There were the engineers from the Messerschmitt in Flossenburg for that.

Q Who was it that was responsible for the prisoners carrying out their work?

A How should I understand that?

Q What is it that you do not understand?

A The question is not clear to me.

Q The prisoners did the work in the Messerschmitt factory, did they not?

A Yes.

Q Who was it that was responsible to see that they did that work?

A There was work personnel from Messerschmitt there who gave the necessary directives, and we couldn't pass any judgment about that because we didn't have any idea about airplane construction.

Q Is the only function that Schubert performed with respect to Messerschmitt works the calculation of the bill that was due the prisoners?

A I can't say that, because actually I didn't have anything to do with the Messerschmitt.

Q So that, as a matter of fact, you do not know what Schubert had to do with the Messerschmitt works, do you?

A I didn't attend any negotiations.

Q Just answer my question.

A He must have had connection with them, of course.

Q But you don't know what that connection was, do you?

A No, I don't know that.

Q Why was it necessary that Schubert and the rest of the employees had to sign this document saying that they would not mistreat prisoners?

A That was customary when I arrived in Flossenburg. As far as I know, that was introduced in the fall or winter of 1941.

Q You had to sign it, too, did you not, Mr. Schmidt?

A Yes.

Q In fact, every man there who had any contact with prisoners had to sign it, is that correct?

A All employees and workers.

Q Who came in contact with prisoners, is that correct?

A Yes.

Q Is it not a fact, Mr. Schmidt, that prisoners worked in both the carpenter shop and in the magazine?

A Yes.

Q I hand you a document marked Defense Exhibit No. 51, and ask you to state whether if a person were standing in the room marked "magazine", it would be possible for him to see the stairs?

A Here's the warehouse, the magazine, and here's the stairway (indicating). It is impossible for you to see the stairs from there.

Q From any position in the magazine, is that correct?

A That's right. May I make an explanation about that?

Q Go ahead.

A These marks here are doors and windows of the warehouse all face in this direction, and the stairway is over here (indicating). For that reason you can't see the stairs from the magazine.

Q You mean to tell the court that a person standing in the magazine with the doors open, cannot see the stairs?

A That's right. It is impossible.

Q This is a door, is it not (indicating)?

A Yes, that's a door.

Q Is this a door (indicating)?

A Yes.

Q What is this right here (indicating)?

A A window.

Q Is the document marked Defense Exhibit No. 51 drawn to scale?

A No, not according to scale.

Q Do you mean to tell this court that a man standing in the door on what appears to be the west side of the magazine, as you face the Defense Exhibit No. 51, cannot see the stairs through the door and window of the room marked "bureau"?

A No, impossible.

Q According to the diagram of Defense Exhibit No. 51 that is possible, is that not so?

A No, it is impossible.

Q Where would a man have to stand in order to be able to see the stairs from the magazine?

A You could not see it at all from the magazine. At the most, you could see it from the carpenter shop and from this office (indicating).

Q It is visible, then, from the carpenter's shop, is that correct?

A You can't see the actual stairway, you could only see someone coming up the stairway.

Q That is what we are talking about. Do you mean it would be impossible to see anyone on the stairway from the magazine?

(Schmidt-cross)

A From the magazine you could not see him, no.

Q But from the carpenter's shop you could?

A Yes, you could see his head when he reached the last steps on the stairway if you were in the carpenter's shop.

Q You did not come in contact with the prisoners very frequently, did you?

A Actually, it was forbidden for me to speak to prisoners. Nevertheless, I often spoke to them.

Q How frequently did you speak to them?

A Daily.

Q Did you speak with the same prisoners, or with different ones?

A With various prisoners.

Q Prisoners were killed in the quarry, were they not?

A Not directly in the quarry, no.

Q Where?

A There were cases of death that occurred at the wire fence.

Q That surrounded the quarry, did it not?

A Yes.

Q Those were prisoners who had been beaten so badly they had to run to the wire fence, were they not?

A May I make an explanation on that?

Q Just answer my question, please?

A Yes.

Q That took place during the time Schubert was there, did it not?

A That was in my time, and Mr. Schubert was also there.

Q You testified that in 1943 a large transport left Flossenburg, is that correct?

A Yes, in 1943 we transferred about 700 men.

(Schmidt-cross)

Q Why was it beneficial to the prisoners that Schubert intercedes to have prisoners kept off that transport?

A Because the people in question were mostly employed in the work as specialists.

Q What does that mean?

A They were people who understood the work already and who had a high state of health.

Q Why didn't they want to leave Flossenburg?

A As I already said, they asked Mr. Schubert often to put in a word for them at the commandant's office when they found they were going to be sent away, because the prisoners presumably knew that it was worse at other places of work.

Q Were these transports going to Mauthausen?

A I don't know what their destination was.

Q How do you know what Schubert did in these cases?

A He got in contact with the camp and sometimes he was successful in keeping some of the people.

Q What were the complaints about the clothing that you mentioned?

A In the winter it is cold in the quarry and prisoners would go to work without gloves, and Schubert saw to it that gloves were made out of rag scraps. He saw to it that the capos received these gloves and were to give them to the prisoners.

Q Was that the only item of clothing that was lacking?

A They didn't have any other possibilities.

Q Will you answer my question?

A Yes.

Q Other than that, all the prisoners were fully clothed?

A I can't say that they were well clothed.

Q What was the complaint about the food?

A The capos often came to Mr. Schubert. With this food, under these conditions, they couldn't demand work from these people.

Q In other words, is it not a fact that the capos came to Schubert to complain when they could not get the work out?

THE WITNESS: I don't understand the question.

(Whereupon the interpreter repeated the question.)

THE WITNESS: I don't believe that. I never heard about that.

PROSECUTION: You do not know whether the capos came and complained about not being able to get the work out when the prisoners were not properly clothed, is that correct?

THE WITNESS: I don't understand the connection here. You say the work would not be put out and then you talk about improper clothing. What are you driving at?

PROSECUTION: Just answer my question.

THE WITNESS: The question isn't clear.

PROSECUTION: Please repeat the question.

(Whereupon the reporter read the question.)

THE WITNESS: It is my opinion that they didn't make any complaint for that reason, only because of food and because of clothes.

QUESTIONS BY THE PROSECUTION:

Q Well, they complained that they were not able to get the work out because the prisoners did not have clothes, is that not true?

A I merely said that in the winter, when it was cold, no reasonable man could work without clothes and gloves, and they didn't get gloves from the camp. Mr. Schubert on his own took care and saw to it that the gloves were made.

PROSECUTION: I will ask the court to please direct the witness to answer the question.

(Schmidt-cross)

PRESIDENT: The witness will simply answer these questions in a concise manner. A good many of these questions can be answered by "yes" or "no". The court desires that you avoid going into unnecessary details unless it is absolutely necessary to make an explanation. Will the reporter please read the question, and will the interpreter instruct the witness to answer.

(Whereupon the reporter read the question, as follows:

"Q Well, they complained that they were not able to get the work out because the prisoners did not have clothes, is that not true?")

THE WITNESS: Yes.

QUESTIONS BY THE PROSECUTION:

Q Do you know whether Schubert had charge of the commandos that worked at the railroad station?

A Yes, he had charge of them.

Q Do you know whether he had charge of the prisoners who worked at the central warehouse?

A Central warehouse -- well, there were two of them at the end. Which one are you talking about?

Q Either?

A He had to take care of the warehouse of Messerschmitt and the warehouse of the quarry.

Q Did you not state a moment ago that the only connection he had with the Messerschmitt was that he prepared the bill for the office in Berlin?

A Yes, but he also had as his duty to take care of the material.

Q Is it not a fact that Schubert also had charge of the prisoners that worked at Altenhammer?

A I don't know.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q In response to a question by the prosecution regarding people running into the wire as a result of having been beaten, what connection or supervision did Mr. Schubert have over the guards or the capos?

A None at all.

Q What did Mr. Schubert have to do with the food ration that was issued to the prisoners of the camp?

A Mr. Schubert had nothing to do with that.

Q What did he have to do with the clothing issue given them?

A Nothing, either.

Q What did you mean that Schubert had charge of the commando detail at the railroad station?

A I meant that only insofar as work is concerned. Schubert didn't have anything to do with feeding the people or guarding them.

Q What connection, if any, did the technical management of the factory have with the commando leader?

A None.

Q You stated in response to a question from Mr. Duncan that all persons who came in contact with prisoners had to sign this statement about mistreatment and beating?

A Yes.

Q Were you referring to the civilian employees or the SS?

A Only the civilian employees.

MR. O'CONNOR: That is all.

MR. McKAY: If it please the court, one of the questions on cross-examination referred to chasing prisoners into the wire, and I re-

(Schmidt-redirect)

spectfully request permission of the court to examine this witness on this question, with respect to Accused No. 21, Jakubith.

PRESIDENT: Proceed, Mr. McKay.

QUESTIONS BY MR. Mc KAY:

Q Mr. Schmidt, can you give the court any idea of the year in which this incident with regard to chasing prisoners into the wire occurred?

A In my presence when I was there in 1942, and in the beginning of the year 1943.

Q Do you know what person was responsible for chasing those prisoners into the wire?

A There was a punishment work detail put together in the camp, and that consisted of people who had committed some misdemeanor or other. This punishment work detail had to work in the stone quarry and was sometimes subject to such chicanery that they ran into the wire.

Q But who was responsible for such chicanery?

A It was mainly the fault of the commando leader, who had this punishment detail under him.

Q Do you know his name?

A When I was there it was Gruber, and these incidents took place then?

MR. Mc KAY: That is all.

PRESIDENT: Recross?

PROSECUTION: Nothing further.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Schmidt, have you ever been in the military service?

(Schmidt-court)

A No.

Q Do you know anything about the military service?

A No, I was only with the emergency militia.

Q You know, do you not, that under normal conditions the senior officer in practically any situation takes command?

A Yes.

Q The court is referring to a line officer, of course.

A I don't understand that.

Q You know that under normal conditions, the senior line officer takes command in any situation?

A Yes.

Q Just what was the situation as far as Schubert was concerned? Just what were his duties? The court desires you to be concise and to the point.

A Mr. Schubert had to take care of the operation there, and didn't have anything to do with the guards or with the troops, respectively.

Q How do you know he had nothing to do with the guards?

A I saw that daily.

Q Who did have charge of the guards?

A I don't know that, I don't know how the camp was split up.

Q But he was an SS 1st lieutenant at that time, was he not?

A Yes, starting with 1943.

Q Previous to that time he was a non-commissioned officer, was he not?

A Yes, a sergeant of the SS.

Q During the time he was a non-commissioned officer, was he senior

(Schmidt-court)

SS non-commissioned officer present in the quarry?

A In the works, in the factory?

Q Yes.

A Technical sergeant.

Q He was senior technical sergeant there, was he not?

A There was one other technical sergeant who worked in the administration, but who had also been ordered away from Berlin at the same time.

Q Do you know whether this other non-commissioned officer ranked Schubert?

A Schubert was a 1st lieutenant with the SS.

Q What the court was referring to was at the time Schubert was a non-commissioned officer, prior to 1943.

A There wasn't any officer there then.

Q Who was the senior non-commissioned officer during that particular period prior to 1943?

A Technical sergeant. There was a man called Funke in the bookkeeping department, and during the time when Mr. Schubert was a technical sergeant, he went around in civilian clothes.

Q The court understand that during the particular period Schubert was senior non-commissioned officer present, was he not?

A Yes, he was senior.

Q At the time Schubert was a 1st Lieutenant of the SS in 1943, he was the senior officer on the job, is that correct?

A Yes.

Q Just where did you get the impression that Schubert had nothing to do with the guards during the time he was 1st lieutenant in the SS on the job?

A Before we got to the office the guards had already been drawn up.

(Schmidt-court)

Q The court is not referring to that. The court is referring to the responsibility of Schubert over these guards, during the time Schubert was a 1st lieutenant of the SS in 1943. What makes you think Schubert had nothing to do with the guards?

A Because I know the rules about that were drawn up in the camp.

Q Just who had the responsibility of the guards, then?

A I don't know the names of the leaders concerned there.

Q You have testified also that Schubert did not have any responsibility, as far as food and clothing were concerned, of the men working under him. Just what is the basis of your statement along those lines?

A Because I talked to the people about that. I directly asked the people who was responsible for the clothing, and they said the camp.

Q To whom did you speak?

A With prisoners.

Q At the very time Schubert was 1st lieutenant with the SS, is that correct?

A Yes, and also the time when he was technical sergeant. That is valid for the whole period of time I was there and Mr. Schubert was there.

Q Did you have an opportunity to observe these workers when they returned to camp in the evening?

A No. I only saw them leave the factory when they went past the office.

Q What was the condition of those men as they left the factory in the evening?

A It happened that at the end exhausted people were carried over in the camp.

Q Did that happen every night?

A I didn't see it every night.

(Schmidt-court)

Q About how many men are you referring to?

A Sometimes two or three, sometimes nobody at all, sometimes one.

Q Can you explain to the court the reason for the condition of those men?

A The food.

Q Is that all?

A It was my impression that the only cause for that was the food.

Q Do you think that the rapidity of the work had anything to do with it, the manner in which the prisoners were forced to work?

A That can't be because we didn't demand any set work.

Q To whom are you referring when you say "we"?

A The employees of the factory.

Q Do you mean to say that with a war on, there wasn't any pressure put on these men as far as output was concerned?

A Not in the stone quarry.

Q They never had any pressure put on from above so far as the output of the stone quarry was concerned?

A No, how it was in the armor factory, I don't know.

Q Did you ever see anybody beaten on that job?

A Yes.

Q How many times?

A I can't tell you exactly.

Q Was it five, ten, fifteen, twenty, or what?

A I often made this observation.

Q How often? Once a day, twice a day, or what?

A Not daily.

Q Just who administered these beatings?

A May I touch upon an earlier point here?

(Schmidt-court)

Q No, just answer my question.

A Capo Rochel.

Q What other capos?

A Jakubith, whom I have already mentioned.

Q Anybody else?

A And then I know a certain Mund.

Q During the time those beatings took place who was in charge around there?

A That was in Gruber's time and in the time of Max Fischer.

Q What year was that?

A I believe that Fischer came in 1943. I don't know exactly any more.

Q Did you ever observe any beatings during the time Schubert was in charge there?

A Yes.

Q How many?

A Two or three times a week, but I can't give you an exact number.

Q Did you ever see these capos using a rubber hose in administering the beatings?

A Yes.

Q When did that occur? Did that occur under Schubert?

A Yes, Schubert then had Rochel relieved of his duties.

Q Was there any other difficulty along those lines after Rochel was relieved?

A Not as far as the factory is concerned, no.

Q Anyother place?

A No.

Q Did you ever see anybody shot around the quarry?

(Schmidt-court)

A I never saw that. When I heard about anything like that I was usually in the office. That was my place of work.

Q Did you ever see anybody shot running into the wire?

A No.

Q How many times did you hear about that?

A I can remember five or six times.

Q Who was in charge at that time?

A That was work detail leader Gruber.

PROSECUTION: Just a minute, may it please the court. I do not know if it makes any difference, but I believe that the translation, "who was in command" has a different meaning.

PRESIDENT: The question included the word "charge".

QUESTIONS BY THE PRESIDENT:

Q Who was in command at that time?

A In the quarry the work detail leader was Gruber.

Q Who was in command of the whole quarry at that time?

A The quarry? Mr. Schubert.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q Who owned the earth and stone works?

A As far as I know it was the SS Pohl who was the representative.

Q Do you know who got paid for the output of the quarry?

A I don't know, I had nothing to do with bookkeeping.

Q You were never present when the prisoners were paid?

A I was several times present, perhaps two or three times.

Q Did you ever see any of them given money?

A Never any money, only coupons.

Q What were the coupons?

A They could buy various things in the camp canteens with them.

(Schmidt-court)

Q Only in the camp canteen?

A Yes, only in the canteen.

Q Schubert was responsible for one thing, was he not, for having work done efficiently in the quarry and the factory?

A Yes.

Q Then anything he did to increase the efficiency was done following out his duties, right?

A He merely gave out some cigarettes whenever he had any. He didn't have any other means at his disposal.

Q If there were men who were efficient on the job, it would be to his interest to keep them there, is that right?

A Yes.

Q He was not interested in anything but efficient production, is that right?

A Yes.

QUESTIONS BY THE PRESIDENT:

Q Did you ever hear of disciplinary action being taken against a Russian who made a cigarette holder out of scrap material? The court is referring to the quarry.

A I don't know anything about that.

Q You never heard of it?

A No. If that had been the case, I would have found out from the prisoners who were with me in the office.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Do you know whether Schubert was a line officer or specialist?

A He was only a specialist.

Q Did he wear a specialist insignia on his collar or on his uniform, so designating him as a specialist?

A He had a narrow shoulder piece as a specialist, and the active officers had a broad shoulder piece.

Q When you say Schubert was in command of the quarry do you mean he was in charge of the SS guards and the prisoners?

A I can't say that. Mr. Schubert didn't have any influence with regard to the prisoners and with regard to the SS guards, either. If he wanted to transfer a worker from one place to another he had to have permission to do it.

MR. O'CONNOR: That is all.

MR. Mc KAY: One question on behalf of the accused, Jakubith. In examination of the court you mentioned seeing beatings by Jakubith. Are those the same beatings you described to the court at a prior date?

THE WITNESS: Yes, the same beatings about which I testified the last time I was on the witness stand.

MR. O'CONNOR: I have one more question. Did Schubert have any authority to punish SS men who beat or mistreated or shot prisoners?

THE WITNESS: No.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q How do you know he didn't have any authority along these lines?

A I found that out in the course of conversations with guards and prisoners.

Q Did you ever get that information from senior officers or anybody else in authority around there?

A In the works?

Q Around the camp.

A Captain of the SS Fritsch, the adjutant, Baumgartner, and the commandant often came into the factory.

(Schmidt-court)

Q Did you ever get that information from any of those individuals you just mentioned that Schubert had no authority over the prisoners?

A Schubert had no authority over the prisoners.

Q Just what is the authority for your statement to that effect? What is the reason for it? Is that just your own personal opinion, or did the camp commander or the camp adjutant, or Captain Fritsch, or any of the officers you mentioned, tell you that?

A For that reason I had an incident with a commando leader.

Q Then your statement to the effect that Schubert did not have any authority over the SS guards or the prisoners is just your own personal opinion, is that the idea? What the court wants to find out is the authority for the statement you just made, or the reason for it.

A Commando leader Fischer saw me talking to a prisoner once. He called me to task about that and forbade me again to do it, and he said that the prisoners would take all their orders exclusively from the work detail leader, and we had nothing to say about them.

Q Naturally. You were a civilian, were you not?

A Yes.

Q What does that statement have to do with Schubert?

A Because the work detail leader said to me that Schubert had no authority over the prisoners.

Q Who was the work detail leader at that time?

A That was Fischer.

Q Was there anything to prevent Schubert from making reports about these various killings and beatings?

A Schubert had a chance to make reports.

Q Did he make them, that you know of?

A Yes. For example, if serious cases occurred and he also made

reports when complaints came in with regard to the food situation.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q You stated in response to a question by Colonel Elliott that you understood what he meant when he said a senior officer took over in any situation, is that correct?

A Yes.

Q You see these guards standing around this court room. Is it your understanding that Colonel Elliott, who is in charge of this court room, is also in charge of these guards?

A It is my opinion, yes.

PRESIDENT: For the benefit of Mr. O'Connor, and for the benefit of the witnesses and everyone else present, any time I feel it is necessary to give orders to these guards, I will do so.

MR. O'CONNOR: I was referring to chain of command, sir.

PRESIDENT: The court understands.

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q Do you know that the security officer here is in charge of the guards, and not the president of this court?

A I don't know the connection here.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q Do you know the connection in the guard setup in Flossenburg?

A No.

PRESIDENT: Any further questions by the court? Apparently not. Court will adjourn until 1:30 o'clock.

(Whereupon the court recessed at 1205 hours.)

AFTERNOON SESSION

(Whereupon the court reconvened at 1340 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr. Hall and Mr. McKay who are absent on business of the accused; all the accused are present with the exception of Oswalt, Losch, and Lapinski, who are ill and whose interests are being taken care of by counsel.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses they will please leave the courtroom.

PRESIDENT: Continuation of recross examination, Mr. Denson.

RUDOLF SCHMIDT, called as a witness for the Defense, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter as follows:

RECROSS EXAMINATION (continued)

QUESTIONS BY PROSECUTION:

Q Did Jakubith beat the prisoners while Rochel was still there?

A Jakubith didn't arrive until after Rochel was there. Jakubith was the assistant to Rochel.

(Schmidt-recross)

PRESIDENT: Is Mr. McKay available at the present time?

DEFENSE: He is not.

PROSECUTION: We have questions coming up in regard to Jakubith.

PRESIDENT: Court will take a short recess.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, I will withdraw my last question and move that the previous question and answer both be stricken. I have no further questions.

PRESIDENT: The motion to strike on the part of the prosecutor is sustained. Any further questions by members of the court? Apparently not. Does the defense have anything further?

MR. O'CONNOR: No, sir.

PRESIDENT: Does the court understand the defense is finished with this particular witness?

MR. O'CONNOR: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. O'CONNOR: If it please the court, at this time I would like to call the accused, Jakubith, to testify in behalf of the accused, Schubert, No. 44.

PROSECUTION: May it please the court, we may run into the same situation here as we had before. He is not regularly assigned to Mr. O'Connor.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order. Colonel Wilson.

DEFENSE COUNSEL: In the absence of Mr. McKay I will assume the responsibility of taking care of Jakubith's rights.

PRESIDENT: Does that same matter apply to Hauser if he is later called as a witness for the defense in the case of Schubert, No. 44?

DEFENSE COUNSEL: Yes, sir.

ALOIS JAKUBITH, an accused, called as a witness by the defense, voluntarily took the stand, and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Your name is Alois Jakubith, is that right?

A Yes.

PRESIDENT: Just a minute; Court will be closed.

(Whereupon the court was closed at 1355 hours)

(Whereuponthe court was opened at 1430 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel who were present before the court closed are now present.

PRESIDENT: Jakubith, the court understands that you desire to take the stand as a defense witness relative to the accused, Schubert, is that correct?

WITNESS: Yes.

ALOIS JAKUBITH, an accused, called as a witness by the defense, resumed the stand, and testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. O'CONNOR:

Q Jakubith, were you requested by anyone to give this testimony you are about to give?

A No, I am doing it on my own.

Q Will you please identify Schubert that you knew in Flossenburg?

A (indicating) No. 44.

MR. O'CONNOR: The witness has identified No. 44 as Schubert.

QUESTIONS BY MR. O'CONNOR:

Q In your previous testimony to this court you have testified that you were a capo in Flossenburg, is that correct?

A Yes.

Q While you were a capo in Flossenburg, when did you first come to know Schubert?

A I knew Schubert from 1941 on.

Q On to when?

A Until the 20th of April 1945.

Q Did you know a capo in Flossenburg by the name of Schroff?

A Yes.

Q Where did he work?

A As a capo in the camp. He had various jobs.

Q Where did he work in 1944?

A In May 1944 he was relieved of his duties and came into the camp and in June he came to Muelsen.

Q I believe your prior testimony was that you were a capo in the civilian hall, is that correct?

A Walter Schroff was in 1943 a capo in the civilian hall.

Q Where were you a civilian capo?

A In Quarry 1.

Q Were you ever a capo in the civilian hall?

A No.

Q How long did you know Schroff?

A I know Schroff from the year 1938 in Flossenburg.

Q Did you know him well or just casually?

A Not well.

Q Were you present in the courtroom at the time that the witness Kuefner testified for the prosecution?

A Yes.

Q Do you recall his testimony wherein he stated that Schubert turned that report which was submitted to him by the capo Schroff, and as a result of that a Russian was executed a couple of weeks before Christmas, 1944?

A Yes.

Q Can you state to this court if that is true or false?

A It was never true.

Q When did you say Schroff was transferred out of the camp?

A 15th of June 1944.

Q Do you know where he was transferred?

A He was relieved of his duties outside because of an affair with alcohol that came into the camp, and part of the time had charge of the water works, and on the 15th of June he came to Muelsen.

Q Do you know whether he ever returned to Flossenburg?

A No.

Q How do you know that?

A I at least would have seen it or heard about it.

Q Did you attend the weekly meetings of all capos?

A Yes.

Q Who called those meetings?

A Chief Capo, Wittmann.

Q And did you ever see the man you knew as Schroff at one of those meetings after the 15th of June 1944?

A No.

Q Have you ever seen him since?

A No.

Q Were you ever in the building that was called the warehouse?

A Yes.

Q Were you familiar with the physical characteristics of the building?

A Yes.

Q Did you ever have occasion to be in the warehouse?

A I was there every second day in the warehouse in order to pick up material.

Q I hand you an instrument which has been admitted into evidence as Defense Exhibit 51 and ask you if you know what that is.

A That is a diagram of the building in the quarry where the warehouse was and the carpenter shop and the dormitories; the place where material was given out of the warehouse.

Q Have you ever been in the room which is marked on this Exhibit 51 as the warehouse?

A Yes.

Q Where are the windows in that room which is designated as the warehouse?

A The windows of the warehouse are facing the street.

Q By looking out the windows in the warehouse is it possible to see the steps which are up here on the left hand side of the picture?

A Partly.

Q By looking out what window?

A This window. (indicating)

Q I asked you, "by looking out the windows in the warehouse".

A No.

MR. O'CONNOR: If the court please, let the record show that the window which the witness pointed to is in the office, when he said "partly".

QUESTIONS BY MR. O'CONNOR:

Q I will repeat my question: Can you see the stairway from the window in the warehouse?

A No.

Q Were there any regulations in the camp with respect to the right of the prisoners to go into the carpenter shop?

MR. BERKOWITZ: I object to that as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. O'CONNOR:

Q What were the regulations with respect to prisoners going from one office to another in the warehouse?

A There was a sign put over the door and it said that prisoners are forbidden to enter here. If a prisoner wanted to go into the carpenter shop to return a tool, he would have to hand it through a little shelf there and he would receive what he wanted. It was also forbidden for the capos to enter.

(Jakubith-direct)

Q Are you talking about the carpenter shop?

A Nobody was permitted to go in it.

Q When you said "nobody was permitted to go in" do you mean the capos?

A Yes.

Q Where was it forbidden to go?

A All rooms.

Q In the event a person stood at the window in the carpenter shop, could he see the stairway which is drawn on the lefthand side of the diagram?

A No, he couldn't see the corner.

Q Could he see a person going down that walk?

A No.

Q Do you know Schubert's general reputation among the prisoners?

A Yes.

Q What was it?

A He had a good reputation. He had a good reputation among the prisoners.

MR. O'CONNOR: That is all.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Was Schubert in charge of the quarry in 1942?

A As the technical director.

Q Are you familiar with conditions that existed in the quarry in 1942 while Schubert was technical director?

DEFENSE COUNSEL: Objection to the question as exceeding the scope of the direct examination.

PROSECUTION: If it please the court, the witness

has testified to the reputation of Schubert amongst the prisoners. I wish to confront him with his own statement as to the conditions that were imposed upon the prisoners in the quarry while he was director of the quarry, and to question him concerning the basis of that repuation.

PRESIDENT: Will you repeat the question.

(Whereupon the reporter read the last question as follows: Are you familiar with conditions that existed in the quarry in 1942 while Schubert was technical director?)

MR. O'CONNOR: If it please the court, I object to the prosecution's remarks that Schubert was the director. The evidence is that the commandant of the camp was the director.

MR. BERKOWITZ: If it please the court, the witness just said he was a technical director.

MR. O'CONNOR: Then I would appreciate it if he would include the word "technical" when he says director.

PRESIDENT: The court feels that is rather a small point, Mr. O'Connor, but at the same time the objection of Mr. O'Connor is sustained. The objection of Colonel Wilson is overruled.

QUESTIONS BY MR. BERKOWITZ:

Q I will rephrase my question, with the insertion of the word "technical" in front of the word "director".

A Yes.

Q You made a statement about those conditions that existed in the quarry in 1942, did you not?

A Yes, but Schubert didn't have anything to do with that.

Q Answer my question, please. Did you not make a sworn statement which has been admitted into evidence as Prosecution's Exhibit No. 63?

A Yes.

Q In that statement you described the conditions which existed in the quarry as concerns the working conditions of the prisoners?

A Yes.

Q What was the reputation of Schubert among the prisoners who worked under those conditions in the quarry in 1942?

A Schubert had a good reputation in the stone quarry among all prisoners.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

MR. O'CONNOR: No, sir.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Will you state whether or not you were sworn before you took the stand?

A No.

MR. O'CONNOR: You mean on this occasion?

LAW MEMBER: I mean on this occasion, today.

WITNESS: No.

PRESIDENT: Any further questions by members of the court? Apparently not. The court understands the defense is finished with this particular witness at this time?

MR. O'CONNOR: Yes.

PRESIDENT: The witness will be excused and resume his position in the dock.

(Whereupon the witness was excused and resumed his position in the dock.)

MR. O'CONNOR: At this time the defense calls the accused, Hauser, to testify on behalf of the accused, Schubert.

PRESIDENT: Hauser, the court understands you desire to take the stand as a defense witness in behalf of Schubert, No. 44, is that correct?

WITNESS: Yes.

PRESIDENT: Proceed, Mr. O'Connor.

JOSEF HAUSER, an accused, called as a witness by the defense, voluntarily took the stand, and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q What is your name?

A Josef Hauser.

Q Mr. Hauser, you have already testified before this court in your behalf, have you not?

A Yes.

Q Were you a prisoner in Flossenburg?

A Yes.

Q Did you know Alois Schubert?

A Yes.

Q Will you please identify him?

A (indicating) No. 44.

MR. O'CONNOR: The witness has identified Schubert as No. 44.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Hauser, did you know a capo in Flossenburg by the name of Schroff?

A Yes, he was my superior.

Q On what detail?

A Civilian hall, Cl.

Q Covering what period of time?

A February '44 until the middle of May '44.

Q. Do you know what happened to him in the middle of May 1944?

A Yes.

Q What was it?

A He was caught in the prisoners' camp by President of the SS, Fritsch in regard to a black market deal with Schnapps and he had to stay in the camp temporarily until the investigation took place. He was relieved of his duties as hall director and chief capo. But the story turned out to be entirely different and he was ordered to Muelsen.

Q On what date?

A He left Flossenburg on the 15th of June.

Q Did he ever return to Flossenburg?

A Never.

Q He went to Muelsen in June 15, 1944. How do you know he never returned to Flossenburg?

A First of all, every Saturday evening all the capos in the quarry were called into the clerk's office and we were instructed there bout the prisoners, and if he had returned we would have found out about it on that occasion.

Q Did you ever have occasion to go into the building which was called the warehouse?

A Yes, daily.

Q I hand you a document which has been admitted into evidence as Defense Exhibit 51 and ask you if you know what that is?

A That is a diagram of the warehouse and the workshops.

Q I call your attention to the room marked "warehouse". Will you please state to the court whether or not it was physically possible for a person to look out the window in the warehouse and see the stairway which is drawn at the left side of the building?

A Not from the warehouse.

Q Could he see that stairway from the building or room marked "carpenter shop".

A No, he couldn't see it from there, either, because the stairway went downhill.

Q What were the regulations with respect to the rights of prisoners to go about those offices.

A On every door there was a sign that prisoners were not allowed to enter. It didn't matter whether that was the carpenter shops, administration offices or what, and the capos were also forbidden to enter these places and even the chief capo, Wittmann. And the main reason why they were not allowed to enter these spaces was because the warehouse and carpenter shop were full of valuable objects.

Q What is the difference in meters between the building on the top of the page and the one at the bottom of the page?

A About two meters

Q What is the width of the walk that appears in the lower lefthand side of the picture?

A The path was narrow, one man could hardly walk on it. Just one man. It wasn't a real path at all, it was just a temporary detour path so you could cut the distance short when you went down the road.

MR. O'CONNOR: That is all, sir.

PRESIDENT: The court will take a half hour's recess.

(Whereupon the court recessed at 1500 hours)

(Whereupon the court re-convened at 1535 hours.)

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, except Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Mr. McKay and Mr. Hall who are absent on business of the accused; all the accused are present with the exception of Lipinski, Oswalt and Losch, who are sick in hospital and whose interests are being taken care of by counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Proceed, Mr. O'Connor.

MR. O'CONNOR: I have completed.

PRESIDENT: Cross-examination?

JOSEF HAUSER, an accused, called as a witness by the defense, resumed the witness stand and testified further through an interpreter as follows:

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Hauser, you stated that you had a meeting of capos every Saturday evening, is that correct?

A Yes.

Q Where did these meetings take place?

A In the chief clerk's office in the quarry.

Q How many were there?

A All the capos of all the departments.

Q Of all the departments of the camp?

A From the quarry Messerschmidt works.

Q How many men usually attended these meetings?

A Twenty to twenty-five, because those who were on the

night shift were not present.

Q Who took charge of the meetings?

A The chief capo, Wittmann.

Q What was the purpose of these meetings?

A When there were sick people in the work halls, they had to be taken to the chief clerk's office every morning at nine o'clock and every evening at three o'clock, so that they could be taken to the camp. Secondly, if there were any weak prisoners in the section they had to be exchanged and they had to get some replacements.

Q In addition to discussing the sick and the weak prisoners, did you discuss any problems that arose in connection with the work?

A There were no discussions as far as the work was concerned; that was no concern of the capo.

Q Was it not the concern of the capo to see that the work was done by the prisoners?

A No, that was up to the foreman in the workhalls.

Q Who directed the prisoners, the foremen or the capos?

A The foremen would give their instructions to the capos.

Q And the capos saw that the prisoners did the work, did they not?

A Yes.

Q At there meetings was not this duty of the capos discussed?

A I do not think so.

Q Did the meeting take place to see that the work was efficiently carried out, or did it not?

A Well, that is the reason why all the capos who were specialists were assigned.

Q Then the meetings only concerned themselves with the treatment of the prisoners by the capos, is that correct?

A Yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Re-direct?

MR. O'CONNOR: No questions.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COLONEL BURCHAM:

Q Hauser, were all the regulations put out by the headquarters of Camp Floseenburg always obeyed?

A What kind of regulations?

Q Well, to be specific, because a sign was placed on a board, did that necessarily mean that all prisoners obeyed it?

A Yes.

Q Who did the work inside the warehouse?

A Prisoners, civilians and police SS men.

Q Were there any prisoners in the carpenter shop?

A Yes.

Q Did prisoners ever go into the office?

A No; only up to the counter, but there was one prisoner who worked in the office.

LT. COLONEL BURCHAM: No further questions.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY THE LAW MEMBER:

Q Before taking the stand this afternoon, Hauser, to testify in the behalf of the accused Schubert, were you sworn?

PRESIDENT: Just a moment. That question is irrelevant and will not be answered.

LAW MEMBER: I object to the ruling of the court.

PRESIDENT: The record speaks for itself. Furthermore, this matter of administration, or rather administering the oaths was fully covered in a closed session of this court by a majority vote. That was done after a consultation with the senior defense

counsel and the senior prosecutor. The members of this court are cautioned to not disclose their vote in an open session of the court, directly, or by inference. The court will be closed.

(Whereupon the court was closed at 1550 and opened at 1605 hours.)

PROSECUTION: May it please the court, let the record show that all the personnel who were present before the court closed are now present.

MR. O'CONNOR: May it please the court, the statements made by the president before the court closed, through an inadvertence were not interpreted by the interpreter. May these be read, so that an interpretation may be made at this time.

PRESIDENT: The reporter will read the last statement made by the president.

(Whereupon the reporter read the last statement made by the president, followed by an interpretation by the interpreter.)

PRESIDENT: The objection of the Law Member is overruled. Further questions by members of the court? Apparently not. Re-direct?

MR. O'CONNOR: No questions.

PRESIDENT: Re-cross?

PROSECUTION: Nothing further, sir.

PRESIDENT: The court understands the defense is finished with this witness for the time being.

R. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused and resume his position in the dock.

(Whereupon the witness HAUSER, having been duly excused by the court, resumed his position in the dock.)

MR. O'CONNOR: May it please the court, I would like to

ask Colonel Wilson to introduce this document in evidence as a court exhibit, inasmuch as he was directed to procure it.

DEFENSE: May it please the court, on 23 October 1946, if the court will recall, a request was made to the Military Government, Hersbruck, for a certain transcript of record. This has now been received in the form of two certified true copies in response to the request I mentioned which was made over the signature of the President of the Court. I would respectfully suggest that these certified true copies be numbered and received as court exhibits in view of the authentication of the request by the president of the court.

PRESIDENT: Do you desire to have the reporter put thereon the numbers, for identification?

DEFENSE: My thought was, sir, that we would put them into the court exhibit series, but if the court prefers we will put them into the defense exhibit series. Which would the court prefer?

PRESIDENT: The documents will be entered as Court Exhibit and they will be marked number 5.

DEFENSE: There are two documents here, sir, and we possibly would wish to enter them as 5A and 5B.

PROSECUTION: May it please the court, the court has not received them yet in evidence, have they?

PRESIDENT: No, they have not.

DEFENSE: May I have them marked for identification, sir?

PRESIDENT: These documents, consisting of a letter of transmittal, two charge sheets, a sheet of findings and sentence, consisting of five pages in all, will be marked Court Exhibit No. 5, for identification. They will be collectively marked as Court Exhibit No. 5, for identification.

(Whereupon the documents referred to, were marked Court Exhibit No. 5, for identification.)

Nov

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: Yes, sir, I object to the introduction of the documents, marked Court Exhibit No. 5, for identification, on the grounds that the record shows on its face that it is not complete, in that it appears that on the third charge, the particular thereunder on the charge states one thing and the findings, as found on another document, which is a part of Court Exhibit No. 5, for identification, paragraph 3, states that the findings are as amended, and in no place does it appear what the amendment to the third charge was. And without the amendment, it would be impossible for this court to ascertain whether or not the exhibit marked Court Exhibit No. 5, for identification, constitutes a basis of impeachment of the witness Adolf Kuefner. It appears from this record, that the testimony of Kuefner would be consistent with the alleged amendment, as appears from the findings as to Charge III.

DEFENSE: As far as the documents are concerned, they are certified on their respective faces as being true copies.

PROSECUTION: There is no certificate, may it please the court, that those are all the documents. They may be a true copy of everything there, and unquestionably they are; but the amendment to Charge III does not appear there and before the court accepts the charge for impeachment, that amendment should appear before this court because it is certainly the duty of this court to accept the testimony of each of its witnesses and with this material missing, it would certainly be impossible for the court to pass judgment on whether or not this is a proper impeachment.

PRESIDENT: Mr. Prosecutor, is your statement based not only upon the English wording of the particular under the third Charge but also the German? The charge and particular are both in English and German.

PROSECUTION: Sir, I do not know that I exactly understand you. I am assuming that the matter contained in English is a true and correct translation from the German which appears over in the right-hand column of the charge sheet on page 3, in respect to Charge III. But the basis of my objection, may it please the court, is found with respect to the findings. The findings appear to show that Charge III was amended and that amendment does not appear in the document that is sought to be introduced into evidence. And for all that this court knows, if that amendment were present, it would be perfectly consistent with the testimony as given by the witness.

PRESIDENT: Is there any indication that the translation has been sworn to?

PROSECUTION: Could we have this off the record, if it please the court?

PRESIDENT: Yes.

(Whereupon a discussion took place, off the record, between the court, the defense and the prosecution.)

PRESIDENT: The court will come to order.

PRESIDENT: The reporter will read the last question of the president.

(Whereupon the reporter read the last question of the president.)

PROSECUTION: No, sir, there is no indication that the translation has been sworn. May it please the court, the language that is used in the particular of Charge III is a proper translation of the German that is used in the particular of Charge III.

PRESIDENT: And does that same thing refer to the wording of the charge itself?

PROSECUTION: The same refers to the wording of the charge.

PRESIDENT: Then the court understands, Mr. Prosecutor, that in both the English and the German translation of Charge III and

the particular thereunder, there is no indication of an amendment?

PROSECUTION: No, sir, the one place where the question as to the amendment arises is that with respect to the findings which constitute, of course, the important thing inasmuch as to Charge I and Charge II, the accused was found not guilty, and to Charge III, guilty as amended.

PRESIDENT: Anything further?

DEFENSE: I might offer the suggestion that the term, "As amended", presumably refers to paragraph 33, Article 2, Ordinance 1. That is, it refers to some amendment to the article under which the charge was brought.

PROSECUTION: Then, may it please the court, I submit that there would be no excuse for a column in respect to the findings as set forth "guilty as amended", because "as amended" would have no field of action in that column at all, if the law originally enacted had been amended, and he violated the law as amended, the finding would be guilty and would not be guilty as amended. "As amended" applies to a change which has been wrought in the offense as has been stated on the charge, and not in the law itself.

PRESIDENT: Anything further?

DEFENSE: It is quite possible that in an abundance of precaution, the officer making the entry, put the reference to the amendment in both columns meaning that he was guilty under the amended law.

MR. O'CONNOR: On behalf of the accused Keiling, I wish to join with the prosecution in this objection.

PRESIDENT: The court would like to have all the copies.

(Whereupon Court Exhibit No. 5, for identification, and copies thereof, were handed to the court.)

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 1630 hours and opened at 1635 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel who were present before the court closed are now present, with the exception of Mr. Berkowitz, who is absent on business of the prosecution.

PRESIDENT: The objection of the prosecutor is sustained. The court directs that the senior defense counsel have this matter clarified at the earliest opportunity. Defense?

DEFENSE: May it please the court, we have no further witnesses prepared for the remainder of the afternoon, due to the inability to get the proposed witnesses for interviewing them at one o'clock, as was, I believe, mentioned to the court off the record. Those witnesses have now been obtained and other members of the defense are at the moment interviewing them in preparation for presentation to the court, not later than to-morrow morning.

PRESIDENT: The court will adjourn until 0900 hours to-morrow morning.

(Whereupon the court adjourned at 1635 hours to re-convene at 0900 hours, 21 November 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at By Order
um Uhr stattfinden. Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

First Duplicate Copy

MILITARY GOVERNMENT COURT

FLOSSENBURG

CASE RECORD.

Pages 6987 - 7078 Incl.

Case No.

[redacted]

*General

Place DACHAU, GERMANY

Date 21 November 1946

0900 - 1700 Hours

[redacted]

Prosecutor

Defence Counsel

Interpreter

Reporter

WITNESSES:

ARENDT, Kurt Hans

PATRON, Johann

SCHWANNER, Cornelius

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

21 November 1946 0900 - 1700 Hours Pages 6987 - 7078 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
ARENDT, Kurt Hans	6987	7004 7014	7011	7015	7016
PATRON, Johann	7000 7029	7030	7038		7039
SCHWANNER, Cornelius	7045 7053				

EXHIBITS

No.	Description	Identification	In Evidence
D-52	Diagram of Camp Obertraubling	7020	7063
D-53	Diagram, prisoners' barracks	7064	7075

Camp Dachau, Germany
21 November 1946

MORNING SESSION

(Thereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Berkowitz who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Dr. Becker who is absent on business of the accused; all the accused are present, with the exception of Ziebusch, Hussfeldt, Kurat, Oswalt, Losch, and Lipinski who are ill, and Berger and Dr. Schmitz who are conferring with counsel. The interests of those named accused absent are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court has appointed Mr. Anthony Agapito as reporter. He will be sworn.

(Thereupon Anthony Agapito, U.S. Civilian, was sworn as court reporter.)

MR. O'CONNOR: The next witness called for the defense is Kurt Hans Arendt who will testify on behalf of the accused Schwanner, Number 42.

KURT HANS ARENDT, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Will you state your full name please?

(ARENDT- direct)

A Kurt Hans Arendt.

Q Where are you now living, Mr. Arendt?

A In Schconebeck-Bad-Salzelmen, Gartenstrasse 4A.

Q Where are you living at the present time?

A In the special camp.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: At this time, the court desires to advise you that if you should be asked any question which might tend to incriminate you, you have the right to ask the court to refrain from answering that particular question.

Proceed.

Q Mr. Arendt, were you ever in Camp Flossenburg or any of its outcamps?

A Yes.

Q When did you first go to Flossenburg or any of the outcamps?

A I arrived in Flossenburg in February, 1945.

Q Were you a member of the SS?

A I was drafted in the Waffen SS in 1944, but I was transferred from the Waffen SS to the air corps.

Q When you got to Flossenburg in 1945, in what capacity were you there?

A As a guard.

Q What was your rank?

A Corporal of the SS.

Q How long did you stay at Flossenburg at that time?

A We took a transport of prisoners to the camp.

Q How long did you stay in Flossenburg after you arrived.

A Two hours and then we went to Flossenburg where we had our quarters.

Q Who went with you on this transport and when did it go?

A The transport came from Gross Rosen and went to Flossenburg.

Q And from Flossenburg, where did it go?

A A detail was formed there consisting of 600 prisoners and these prisoners were sent to Obertraubling.

Q Is that an outcamp of Camp Flossenburg?

A Yes.

Q Who was in charge of that detail that went to Obertraubling?

A The detail leader was warrant officer in the SS, Schwarner.

Q Will you look behind you and see if you can identify Mr. Schwarner?

A Yes, up there in the last row (indicating).

Mr. O'CONNOR: The witness has identified Number 42 as Schwarner.

Q When did you arrive in Obertraubling?

A In the middle of January, 1945.

Q You mean by that the 15th?

A During the period of time from the 15th to the 20th.

Q When you got to Obertraubling, what duties were assigned to you?

(ANSWER-Direct)

A During the first period of time I was a guard, and subsequently I was made a block leader.

Q When you first arrived in Obertraubling, what was the physical condition of the camp? I am speaking now with respect to buildings.

A The quarters of the prisoners had not been finished yet.

Q Well, had the camp been opened prior to the time that you arrived on this detail?

A The building was still being constructed and nothing was there.

Q When was the building finished?

A About four or six days later.

Q By 'later', you mean after your date of arrival?

A After we had arrived there in the camp, and all the craftsmen were picked out by warrant officer Schwanner little by little, the camp was finished.

Q Where were the SS barracks?

A The SS barracks did not have a roof. It was a very bad quarters.

Q Well, were the SS barracks inside the enclosure or outside?

A Outside the enclosure; outside the prisoners area.

Q What other buildings were in the camp?

A Inside the enclosure there was only the prisoners building and about 50 meters far from the prisoners building, that is where our quarters were.

Q Was there any infirmary there when you arrived?

(ARENDT-Direct)

A When we arrived there were some sick people among the people, about 40, and after 2 or 3 days it was established.

Q Were there any doctors in the camp?

A Yes, there was a prisoner doctor and he made a report, whereupon the infirmary was constructed.

Q Where was the infirmary located?

A In the second floor of the prisoners building.

Q Were there any nurses present?

A There were two or three doctors and they had taken the medical personnel along.

Q How many times a day did you have a roll call in Obertraubling?

A In the morning after the reveille and in the evening.

Q Were you always present in that roll call?

A In the evening I was present, in the morning I would be missing now and then.

Q Where were all the roll calls taken, if they were taken?

A Inside the enclosure where the camp was.

Q Where did you usually stand in roll call?

A At the roll call place which had been constructed for this purpose.

Q Where did you stand with respect to the roll call leader or the commandant--of the roll call leader of the camp?

A I was standing among the prisoners which had to fall out in line. That is where the billeting was and

that is where the prisoners were standing. At about a distance of five meters from the building, the camp eldest, the roll call leader, and the detail leader were standing.

Q Was detail leader Schwanner always present at these roll calls?

A No.

Q When he was there, were you in a position where you could see him at all times during the roll call?

PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection sustained.

Q Where did the detail leader stand during the roll call during the time you were there?

A Immediately next to the roll call leader.

Q And could you see him from where you stood?

A Yes, I could.

Q Did you ever see him carry a pistol at the roll call?

A No, he did not wear a pistol after I was made block leader.

Q When were you made block leader?

A About three or four days after our arrival in Obertraubling.

Q Was that in the month of February, 1945?

A Yes, February, 1945.

Q Now, if the detail leader Schwanner had beaten a man to death at the roll call in the evening, would you have seen it, during the month of March, 1945?

A I would have seen it, the roll call leader would

have seen it, and all the prisoners would have seen it, and also the three guards which were standing in guard around the fence.

Q In the event you did not see it, would you have heard about it?

A Yes, I would have heard about it.

Q Well, did you ever see him beat anyone with a pistol at the roll call square?

A No.

Q Did you ever hear of him beating anyone at the roll call square?

A No.

Q Did you ever see Schwanner beat, or mistreat, or shoot any prisoner?

A No.

Q Do you know what a Browning pistol is?

A No.

Q While you were in Obertraubling, did any prisoner ever attempt to escape?

A Yes.

Q How many times?

A I can't say that.

Q Do you know if any actually did escape?

A Yes.

Q How many?

A There was one occasion and there was another instance where two escaped.

Q Were any of them caught?

A The one who tried to escape all by himself was caught.

(ARENDT-Direct)

Q What happened to him?

A He was put in the solitary confinement.

Q Was he executed?

A No, he was again sent out to work in the detail but he was, I wouldn't say exactly more strictly supervised, but great attention was paid to the fact that he would not attempt to escape a second time.

Q Mr. Arendt, was medical attention available to the camp during the time you were there, for any sick prisoner?

PROSECUTION: I object to counsel leading the witness, if it please the court.

PRESIDENT: Objection sustained.

Q Will you state to the court what medical facilities were at Camp Obertraubling during the time you were there?

A In the beginning when we get there, there were some medicines available, but due to the fact that typhus and dysentery had broken out there and that no more medicines were available, naturally with great difficulties, the detail leader went to Regensburg in order to buy some medicines; and the roll call leader went to Flossenburg as a messenger in order to pick up some medicines, of which only a certain amount was given out.

MR. O'CONNOR: If it please the court, let the record show that the accused Berger has returned to the dock.

Q When did this epidemic break out in the camp?

A Shortly after our arrival in Obertraubling.

Q How many prisoners died during this epidemic?

(ARENDT-direct)

A About 190 to 200. I don't know exactly.

Q During what period of time was that?

A From February, 1945 up to the evacuation, that is, on the 18th of April, 1945.

Q Did any new prisoners ever come to the camp after your first arrival?

A No.

Q Mr. Arendt, did you ever see Schwanner carry a pistol?

A In the beginning when he went to Flossenburg on official business, on an official trip, and on the 18th of April on the evacuation march.

Q What kind of a pistol was it?

A A Czech pistol.

Q Do you know the make of that Czech pistol?

A No.

Q How large was it in centimeters?

A You could carry them on your own hand, you could carry them like that (indicating) very comfortably.

Q About how long was it? Estimate it in centimeters please.

A About 15 centimeters.

Q Did you ever see him carry that pistol other than the first few days, and on the date you left Chortraubling on the evacuation?

A In the meantime, when he once went to Flossenburg to pick up some medicine and to settle some business.

Q Do you know who owned that pistol?

A A warrant officer in the SS, Schwanner.

Q How do you know that?

(ARENDT-direct)

A When he gave the pistol to us block leaders because no block leader was allowed to enter the camp with a rifle, he said 'I will give you my pistol'.

Q At the time of the evacuation on the 18th of April, 1945 how many sick prisoners were in the camp?

A On the 16th of April a transport consisting of sick prisoners, about 60 to 80, had left camp, in charge of which was oberscharfuehrer, a technical sergeant in the SS.

Q What was his name?

A Schwanke.

Q How many people left Obertraubling on the 18th at the start of the evacuation march?

A About 200 to 250.

Q When you give that figure, are you including the sick prisoners or just those who marched in the column?

A Only the ones who were able to march.

Q Were any prisoners left behind?

A No.

Q How many columns were there in the march?

A There was just one column.

Q Who was in charge of the column?

A Technical sergeant in the SS, Patren.

Q Did Schwanner participate in the march?

A There was one truck made available on which the baggage and a few prisoners were put which were not able to march. I would not say directly, were not able to march, but they were weak and put on this truck, and warrant officer Schwanner was with them and they went in advance.

(ARENDT-Direct)

Q Did he go the entire distance in that truck?

A He went on this truck up to the next village, the next place in order to look for quarters.

Q Then what happened?

A Then the truck came back and when the truck came back some more prisoners were put on it and left on the truck to warrant officer Schwanner, in order to join warrant officer Schwanner.

Q Did Schwanner march on foot at any time during that march?

A He had a bicycle and part of the time he was with the march column and part of the time he went on in advance to look for quarters and feed.

Q Before you left Obertraubling, did he call the guards or the non-commissioned officers together and issue any orders?

A Yes.

Q What were they?

A That no sick prisoner was to be left back and that it was not to be shot at escaping prisoners.

Q Did any prisoners escape during that march?

A A good many.

Q Well approximately how many did escape from the time you left Obertraubling to the time you arrived in Dachau?

A I can't say that.

Q Can you give the court any estimate at all?

A No.

Q Were any escaped prisoners shot or shot at during that march?

(ARRENDT-direct

A No, that was forbidden. We were not allowed to shoot at escaping prisoners and it did not happen, either.

Q What was done with prisoners that could not keep up with the march?

A We did not go too rapidly. We went very comfortably so that every prisoner had to keep up. Nobody was left behind.

Q Were all the prisoners able to keep up with the march all during the time you were marching from Obertraubling to Dachau?

A With the exception of those who escaped, all the rest arrived.

Q Did any prisoners get sick during the march?

A One prisoner fell ill during the march and he was delivered to a hospital, but upon being delivered there he died. Then he was buried in a prisoners cemetery.

Q When did that happen?

A It was reported on the evening of the 20th of April. When the doctor reported it on the evening of the 20th of April, Schwarzner asked whether this case was very urgent or whether he could wait until the next day, and whereupon I provided a carriage and the sick prisoner was put on this carriage, was covered with coats, and so we went to the hospital.

Q In what city?

A I don't know.

Q Do you know the type of illness this prisoner had?

A I don't know that either.

(ARENDT-Direct)

Q How was the food carried for the prisoners and the guards on this march?

A On a truck.

Q All the way?

A Yes, from place to place, and at every place, I think, there was a truck made available for us. I don't want to claim it, but as far as I knew, food was carried on a truck all the way.

Q During the march were you ever subjected to an air attack?

A No.

Q How many prisoners finally arrived in Dachau on that march?

A I can't say.

Q Well, can you estimate to the court?

A No.

Q How many times did you see Schwanner on the evacuation march starting at Obertraubling to the time you arrived in Dachau?

A I will have to think that over.

PRESIDENT: I suggest, Mr. O'Connor, that you come back to that question later.

Q I will put it in a different way. Did you see Schwanner every day during the march?

A Yes, in the quarters with the exception of one evening.

Q Did he issue any further orders during the course of the march?

A No.

Q Did you hear any shooting during the march?

(ARENDT-Direct)

A No.

Q Did you see any prisoners beaten or mistreated during the march?

A No.

Q Did any prisoners get sore feet and have to fall back?

A The prisoners who had sore feet were put to another detail in which I was in charge, and we went to the next village very slowly and comfortably, and then walked up with the detail leader who was with the healthy and strong prisoners, together with my group of weak prisoners. That was in the evening of the 21st when I was looking for quarters personally, that is, I and20 or 30 prisoners.

Q Did you continue to march with these prisoners all the way to Dachau?

A When we met detail leader Schwanner on the following day, we left on the same morning and due to the fact that there were some sick prisoners, a truck of the fire brigade from a neighboring village was made available to us and the sick prisoners were put on this truck, and all the prisoners who were either weak or had sore feet were picked up and put on this truck.

Q Are these sick prisoners that you refer to the same detail that you say you were in charge of?

A Yes.

Q How far did you go on this truck?

A Until we reached Camp Dachau.

Q Did you arrive in Dachau before or after the main marching column?

(ARNOT-Direct)

A Before the main marching column.

Q And how many were in your group that came to Dachau in this truck or trucks, whatever it was?

A About 50 to 70.

Q Were you present at Camp Dachau when the marching column arrived?

A No.

Q Do you know if Schwanner accompanied the marching column all the way to Dachau?

A He went to Dachau before the marching column arrived and reported that in a short period of time the marching column, which consisted of prisoners, would arrive. When I arrived here at Dachau with the transport of sick people, warrant officer of the SS, Schwanner, was already here.

Q I will ask you again to try and give the court an estimate of the number of prisoners that escaped during that march?

A I really can't say. I can't state any number.

Q Were there many or a few?

A Well, there were a good many.

Q What date was it that you arrived in Dachau on the march?

A I arrived in Dachau on my truck in the afternoon of the 23rd of April, 1945.

Q Were there any doctors on that march?

A There was one doctor with the detail consisting of sick prisoners which I had under me.

Q Did he stay with your detail?

A Until the end.

(ARENDT-Direct)

Q Did he go with you in the truck with the sick prisoners to Dachau?

A Yes.

Q I will go back to Obertraubling. Did you have occasion to see Schwanner going about his duties in the camp?

A Yes.

Q When did you become a block leader?

A About three or four days after my arrival in Obertraubling.

Q And what were your duties?

A It was my duty to make the roll call in the morning, then the prisoners who were able to work were picked out by the doctor. Then the prisoners were lined five abreast and I had to take them to their place of work together with guards.----

PRESIDENT: Just a minute, I would like you to check on one expression. Do you have 'picked out' or 'kicked out'?

INTERPRETER: Picked out.

---- A At the place of work it was my duty to see to it that the prisoners performed their work, that no accident happened, and that sick prisoners were taken to the camp by the truck which usually would bring the food.

Q Do you know how Schwanner treated prisoners in the camp at Obertraubling?

A Well.

Q What was his reputation among the prisoners?

PRESIDENT: Is that expression 'good' or 'well'?

INTERPRETER: No, 'well' is right.

(ARENDT-Direct)

Q. I will clarify that expression. When you say 'well', you mean he treated them good?

A. Yes.

Q. What was Schwenner's reputation among the prisoners in the camp?

A. I talked about this case particularly with German speaking prisoners and asked them what they thought about Schwenner; thereupon prisoners answered 'warrant officer Schwenner is good'.

MR. O'CONNOR: No further questions.

PRESIDENT: The court will take a half hour recess.

(Thereupon the court recessed at 1000 hours.)

Ta 619
11/21
pe-1
Closs.

MORNING SESSION

(Thereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Perkowitz, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Mr. Hail, who is absent on business of the accused; all the accused are present, with the exception of Losch, Gerhalt, Hussfeldt, Lipinski and Wurst, who are ill, and Mr. Schmitz, who is conferring with counsel. The interests of those named accused are being taken care of by counsel.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Cross examination.

KURT HANS ARENDT, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Are you the same man who was interrogated on or about the 2nd of August, 1945?

A I didn't understand your question.

Q Were you interrogated on or about the 2nd of August, 1945, with respect to Obertraubling?

A I was once asked about that.

Q You were interrogated, were you not?

A Yes.

Q You lost your soldbuch sometime prior to the 2nd of August, 1945, did you not?

A Yes.

Q You were called to arms on or about the 1st of May, 1941, were you not?

A Yes.

Q You were discharged on account of sickness and later were called back to the S. S. on or about the 26th of October, 1944, were you not?

A I wasn't released. I was serving with the Air Force, with the anti-aircraft battery there, and in 1943 I was assigned to a fire-fighting outfit, against fires started by air raids.

Q On the 20th of October, 1944, you joined the S. S., did you not?

A On the 16th of September I went to the S. S.

Q You went to an S. S. regiment in the concentration camp of Gross Rosen, did you not?

A We were serving with the S. S. in Czechslovakia, and after being investigated five times, it was determined that I was not fit for front line duty.

Q On or about the 20th of February, 1945, you came to Flossenburg, did you not?

A Yes.

Q Do you remember that interrogation now?

A Yes.

Q At that time, you made certain statements concerning Schemmner, did you not?

A Yes.

Q There were approximately 600 prisoners that went to Obertraubling, were there not?

A Yes.

Q In the first days that you were there, the prisoners were required to sleep on the earth without any mattresses or straw, is that not correct?

A There were some things available.

Q All 600 of them did not have mattresses or straw, did they?

A No, that wasn't delivered until I had been in Obertraubling for a short time already.

Q During that time, they had to sleep on the bare earth, did they not?

A Yes.

Q During the time that you were there at Obertraubling, the prisoners were suffering from diarrhea, were they not?

A Yes.

Q Approximately 300 of them died, did they not?

A I can't give you the exact number there. I don't know it.

Q Your recollection was better on the 2nd of August, 1945, than it is at the present time, was it not?

A The 2nd of August, 1945?

Q Yes.

A August, 1945? I don't understand that question.

Q Your recollection of the matters that transpired at Obertraubling was better on the 2nd of August, 1945, than it is at the present time, is that not true?

A Yes.

Q At that time, is it not a fact that you stated that many

prisoners, about 300, died at Obertraubling?

A Some of them died; I don't know how many.

Q I am asking you the question now, if it is not a fact that at that time you stated that approximately 300 of the prisoners died?

A I estimated that number.

Q The prisoners that were confined in Obertraubling were used for work by the air force center in Regensburg, were they not?

A Yes, they were working on runways for airplanes they were supposed to build there.

Q The contractors who had charge of that job required the job to be done in a short time, did they not?

MR. O'CONNOR: I object to the question as calling for the opinion and conclusion of the witness.

PRESIDENT: Read the question, please.

(Whereupon the question was read by the reporter as follows:
"Q The contractors who had charge of that job required the job to be done in a short time, did they not?")

PRESIDENT: Objection overruled.

QUESTIONS BY PROSECUTION:

THE WITNESS: I beg that the question be repeated.

(Whereupon the interpreter did as requested.)

THE WITNESS: Yes.

Q At Obertraubling, these prisoners were required to get up and form to go to work at a very early hour, were they not?

A The reveille for the prisoners was determined by the work detail leader.

Q What was that hour?

A I don't know any more.

Q What is your best judgment about it, Arendt?

Ta 619
11/21
pm-5
Pless.

A We never left the camp before it became daylight.

Q During February and March, up until the 18th of April, 1945, approximately when did it become daylight?

A I can't tell you any more.

Q Have you any judgment about it?

A No.

Q Isn't it a fact that when prisoners did not move fast enough to join these details, they were beaten and kicked?

A That perhaps occurred. The capos perhaps did that.

Q You were there, were you not?

A Yes.

Q You know who did it, do you not?

A I don't know the capos.

Q Do you know what positions the people held that did this?

A They were block aldests, capos.

Q Is it not a fact that Schwanner also beat some of the prisoners?

A I never saw that.

Q You heard about it, didn't you?

A It is possible that it happened sometime in the morning at the roll call when I was not there, but I was not there.

Q Is it not a fact that you stated on the 2nd of August, 1945, that the camp commander, Koegel, beat the prisoners cruelly?

A That is possible that I said that. I can't remember any more.

Q Didn't you also say that they were mostly beaten in the morning if they were not quick enough in composing work details and marching out of the camp?

A It is possible that I said that.

Q It is true, is it not? You are reminded that you are under oath.

(ARENDT-Cross)

A Then I beg that this question be repeated.

PROSECUTION: Will you read the question, please?

(Whereupon the question was read by the reporter as follows:
"Q Didn't you also say that they were mostly beaten in the morning if they were not quick enough in composing work details and marching out of the camp?")

THE WITNESS: Once in a while the capos and the block eldests would beat. I saw that.

QUESTIONS BY PROSECUTION:

Q You also heard, did you not, that Schwarzer beat the prisoners at the same time, is that not true?

A It is possible that that happened at the roll call when I was not there, but I did not see it.

Q But you did hear about it, did you not?

A Yes.

Q Also, there were among this group that went out to work many sick prisoners who were not permitted to go to the hospital, is that not so, Arendt?

MR. O'CONNOR: I object to the question, for the reason that it calls for an opinion which this man is not qualified to give.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q You had prisoners who were ill there in Obertraubling, did you not?

A There were sick prisoners in Obertraubling.

Q You knew that they were sick, did you not?

A Yes.

Q Tell the court whether or not there were such prisoners who were not allowed to go to the hospital, but who were required to go to work?

MR. O'CONNOR: Same objection, sir. There still has been no foundation laid to qualify this witness as an expert.

PROSECUTION: I would like to be heard in that respect.

PRESIDENT: All right.

PROSECUTION: He has testified without any objection that he knew that there were sick prisoners there, and if he knew whether or not there were sick prisoners there, he can testify to this court whether or not they were required to go to work and not go to the hospital. It doesn't call for any conclusion now that is not sustained by this record.

PRESIDENT: There will be a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. Objection overruled.

PROSECUTION: Read the question, please.

(Whereupon the question was read by the reporter as follows:
"Q Tell the court whether or not there were such prisoners who were not allowed to go to the hospital, but who were required to go to work?")

THE WITNESS: No, there weren't any like that.

QUESTION BY PROSECUTION:

Q Didn't you state that that was the case, on or about the 2nd of August, 1945?

MR. O'CONNOR: If the court please, I object to the form of the question. I believe the question was, didn't he state that was the case on or about August 2, 1945. I think the camp was

evacuated on or about that date.

PROSECUTION: I will withdraw the question.

QUESTIONS BY PROSECUTION:

Q On the 2nd of August, 1945, Arendt, didn't you state that there were many sick who could not move quickly and were not allowed to go to the hospital?

A No prisoner was forbidden to go to the hospital. Every prisoner had a chance to do that.

Q Answer the question, whether or not you made that statement on the 2nd of August, 1945?

A I can't remember that.

Q Did you say you didn't make that statement?

A I really can't remember.

Q Is it possible that you did make that statement?

A It is possible that I made the statement. It is also possible that I did not make this statement.

Q Why do you think it is possible that you did make the statement? Will you answer the question, please, Arendt?

A May I have the question repeated?

(Whereupon the question was repeated by the court interpreter.)

THE WITNESS: It is possible that prisoners who could go to the hospital didn't go to the hospital, and went off on the work detail in the morning, and would come back to the camp at noon.

QUESTIONS BY PROSECUTION:

Q It is also a fact, is it not, Arendt, that while these prisoners were at work, they were required by the capos to take their shirts off and work stripped from the waist up?

A That is not true. It certainly occurred that prisoners would take off their jackets in order to dust off the straw which

had fallen in, because they had been carrying straw on their backs.

Q Did you state, on the 2nd of August, 1945, that from time to time you saw that the camps forced the workers to take off their shirts at work?

A When it was very warm, the prisoners would sometimes take off their shirts, and when it got cooler, they would put the shirts on again.

Q That took place between February and April, 1945, is that correct?

A I can't remember that.

Q That is when you were there, is that not so?

A From February, 1945, until April, 1945, I was in Obertraubling.

Q That is when you saw that take place, is that not so?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Who interrogated you prior to your coming here, Mr. Arendt?

A The roll call leader and warrant officer Schwamner carried on conversations at various times.

Q That is not what I am referring to. Who interrogated you on August 2, 1945?

A I can't remember any more.

Q Do you remember where it took place?

A No.

Q Were you in the custody of the American authorities on August 2, 1945?

A Yes.

Q You don't know where they were holding you, what place?

A That was in the bunker. It is possible that I was interrogated in the bunker, but I can't say that for sure.

Q In what camp?

A Here in Dachau.

Q How many people were present at that interrogation?

A I don't know any more.

Q Did you write the statement down in your own hand?

A I can't remember.

Q Can you remember giving the statement at all?

A No. It is possible that I was interrogated; it is also possible I was not interrogated. I can't remember it.

Q Do you remember signing any statement?

A I can't remember that, no.

Q Did you go on the work detail in Oberraubling?

A The period of service on the work details lasted from noon until noon of the next day.

Q Did you go on those work details?

A Yes. I would be on duty from one noon until the next noon, and then another block leader would take over that work until the following noon.

Q You stated on cross examination that the capos and the block elders would occasionally beat the prisoners. Do you know the reason for those beatings?

A We had to build a runway there in the field, and there was a field of weeds lying in between, and the prisoners had to clear out this field. Instead of clearing it out, they would dig them out and eat the roots, and many of them got sick, and the block leader would strike once in a while on that occasion, because he was angry, because

(ARENDT-Redirect)

it had been interpreted in all the languages of all the various nationalities which were in the camp that eating this stuff would have certain consequences.

Q Were those the occasions on which the capos beat the prisoners?

PROSECUTION: I object to counsel leading the witness, may it please the court.

PRESIDENT: Objection sustained.

QUESTION BY MR. O'CONNOR:

Q What were the occasions upon which the capos beat the prisoners?

A The prisoners had eaten weeds.

Q How many times did you see prisoners take off their shirts for any reason on the work detail?

A I only saw that once, perhaps twice. I can't say it for sure, once or twice.

Q How many prisoners took their shirts off?

A I don't know.

Q Did they all take them off, or just part of them?

A I don't know.

Q How many days after you arrived in Obertraubling were you or the prisoners required to sleep on the earth?

A I don't know how long the prisoners had to do that. I know the guards had to do it about eight days.

Q The G. F. slept on the ground for eight days?

A Yes.

Q When was the building, the barracks for the prisoners completed? I mean, how many days after you got there?

A There was always something going on at the camp. There was always something being built or being repaired. For that reason, I can't give you any information.

(AFFENDT-Redirect)

Q When was the roof put on the building?

A That was already there when we arrived in the camp.

Q When was the floor put in, if you can remember that?

A I don't know.

Q Do you recall how long it was before you had straw and mattresses?

A Perhaps three or four days after we had arrived there.

MR. O'CONNOR: No further questions.

PRESIDENT: Recross examination?

PROSECUTION: No further questions.

MR. McKAY: Due to the fact that this man has referred to capos and block eldests, I would like to have the opportunity to cross examine him to protect the interests of those prisoners whom I represent.

PRESIDENT: Proceed.

CROSS EXAMINATION

QUESTIONS BY MR. McKAY:

Q You spoke of capos and block eldests beating prisoners. Do you know the names of individuals who did that?

A No, I can't do that. I don't know them by name.

Q Have you ever seen them since you left Obertraubling?

A One of them.

Q Where did you see him?

A In the special camp.

Q Can you give the court any idea of the number of such beatings that you saw?

A That went on for about eight to ten days, and then the German block eldests came out, and after that no more prisoners were beaten.

Q Will you look over in this dock and see if you see any of

the capos or block elderts who were involved in that particular incident?

A I don't know anybody.

Q Look them over carefully. Come right down here and walk up by it.

(Whereupon the witness did as directed.)

A Nobody is here.

MR. McKAY: That is all.

PRESIDENT: Redirect examination? Recross examination?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Those prisoners were so hungry that they were eating the roots of weeds, is that right?

A Yes.

DR. WACKER: I don't believe that the word "weeds" has been translated correctly.

PROSECUTION: Mr. Interpreter, would you translate it properly?

INTERPRETER: Yes, sir, I think I did.

DR. WACKER: I made a mistake; I misunderstood it. It is all right, it is weeds.

PRESIDENT: It was weeds, or wheat?

INTERPRETER: Weeds.

PROSECUTION: Roots of weeds.

QUESTIONS BY PROSECUTION:

Q You also testified, did you not, Arendt, that the capos and block elderts beat these people as the formations moved out to work in the morning, is that not so?

A That happened.

PROSECUTION: No further questions.

PRESIDENT: Questions by any member of the court?

LT. COL. BURCHAM: When was it you talked this situation over with Schwanner?

THE WITNESS: About eight or ten days after we had taken over the camp.

LT. COL. BURCHAM: That is all.

PRESIDENT: Arendt, you have testified that Schwanner's reputation among the German prisoners was good. Just what was his reputation among the other prisoners, particularly Allied prisoners?

THE WITNESS: The general reputation of Warrant Officer Schwanner was a good one among the prisoners.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect examination?

MR. O'CONNOR: No questions.

PRESIDENT: Recross examination?

PROSECUTION: No questions.

PRESIDENT: The court understands the defense has finished with this witness for the time being?

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom.)

MR. O'CONNOR: May it please the court, the next witness to be called for the defense is Patron. He will testify on behalf of No. 42, Schwanner.

JOHANN PATRON, called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Will you state your name, please?

A Johann Patron.

Q Where are you residing at the present time, Mr. Patron?

Ta 619
11/21
pm-15
Ross.

A I am in Dachau at the present time.

Q Where?

A Camp Three.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: You are advised that if you should be asked any question that might tend to incriminate you, that you have a right to ask the court to refrain from answering that particular question. Do you understand?

THE WITNESS: Yes.

PRESIDENT: There will be a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. Proceed, Mr. O'Connor.

QUESTIONS BY MR. O'CONNOR:

Q How old are you?

A Fifty-four years old.

Q Are you a member of the S. S.?

A I wasn't in the S. S. as a civilian. Since the 10th of November, 1939, I was with the S. S.

MR. O'CONNOR: How does that answer read now?

(Whereupon the answer was read by the reporter as follows:
"A I wasn't in the S. S. as a civilian. Since the 10th of November, 1939, I was with the S. S.")

QUESTIONS BY MR. O'CONNOR:

Q Were you a member of the S. S. on January 1, 1942?

A Yes.

Q What was your rank at that time?

A I was a sergeant with the S. S. in 1942.

Q What was the highest rank you attained?

A To technical sergeant of the S. S.

(PATRON-Direct)

Q Did you see service in the first World War?

A Yes.

Q In what capacity?

A I was with the cavalry.

Q What rank did you attain in that war?

A Sergeant.

Q Were you ever stationed in Camp Flossenburg, or any of its out camps?

A In Obertraubling.

Q When did you go there?

A 16 March 1945.

Q What was your rank at that time?

A Technical sergeant.

Q Who was the detail leader of Obertraubling at that time?

A Warrant Officer Schwanner was in that capacity at that time.

Q Will you look in the dock and see if you can identify him?

A Second one from the right in the top row.

MR. O'CONNOR: The witness has correctly identified No. 42 as Schwanner.

QUESTION BY MR. O'CONNOR:

Q When you arrived in Obertraubling, how many buildings were inside the enclosure?

A There was one building inside the wire enclosure.

Q Was it completed? I mean, was the building completed?

A When I got there, the building was completed.

Q What was your first assignment to duty at Obertraubling?

A After I had been there for one or two days, the commando leader put me in as work commitment leader.

Q What did you do the first few days?

A We set up beds and made the quarters livable.

Q You had no official duties the first few days, is that what you mean?

A No.

Q How many roll calls were there at Obertraubling from the time you arrived until the evacuation?

A Roll calls were held early in the morning and in the evening.

Q Did you stay at the camp until it was evacuated?

A Yes.

Q What time was that roll call held in the morning?

A In the morning, a quarter before seven, and in the evening, at six.

Q Where was the roll call held?

A In the roll call square.

Q Who was present, in an official capacity, at those roll calls?

A The block eldest reported the roll call, and I reported the roll call to the work detail leader.

Q By the work detail leader, you mean Schwanner?

A Schwanner, yes.

Q Were you present at all of these roll calls from the time you arrived until the camp was evacuated?

A Yes.

Q Did you see Schwanner at all these roll calls?

A If he had any official duties, he would always be at the roll call square.

Q When he was there, did you see him?

A Yes.

MR. O'CONNOR: Will you mark this diagram of Camp Obertraubling as Defense Exhibit 52 for Identification?

Ta 619
11/21
pe-16
Closs.

(Thereupon the document referred to was marked Defense Exhibit 52 for identification.)

PRESIDENT: There will be a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Patron, I hand you a document marked Defense Exhibit 52 for identification, and ask you to examine it and state what it is.

A Yes, that is the camp of Obertraubling.

Q Will you make a mark with this pen and state where the roll call square was? Mark where it was on the diagram. Just put an X. In the roll call, both morning and evening, approximately where did the detail leader stand in the roll call square?

A He stood here on the spot which I have designated with an X.

Q Where did the detail leader stand when he was present?

A The work detail leader would come down the street here, come to this gate, and go over to this spot.

Q I don't mean the work detail leader. The detail leader of the camp, Mr. Schwanner -- where did he stand when he was present?

A I reported the roll call here, where this mark is made.

Q To Schwanner?

A Yes, to Schwanner.

Q When you were made work commitment leader of the camp, what were your duties?

A I went to the chief architect, and from him I got my orders.

Q What were they?

A The orders which the various work details had to carry out, where they had to work.

Q Where did you get your men?

A The prisoners were split up into work details.

Q Who made the decision as to who would work on what detail?

A In the morning after the roll call, the first thing to happen would be that the doctor would pick out the sick people from the prisoners.

Q Go on.

A These people were put to one side, and the healthy prisoners would then go to work.

Q What was done with the sick prisoners?

A The sick prisoners were put over to the right, and then they would go off to the right side. After the healthy people had gone to work, they would go to the hospital and would be given medical treatment there by the doctors.

Q As labor commitment leader, did you accompany the work detail?

A No. There was a block leader which went with the work details to the place of work.

Q Did you remain in the camp all day?

A I was usually in the camp.

Q Do you know whether or not a doctor accompanied the work details?

A Yes, a doctor also accompanied the work details.

Q Did he stay with them during their working period, or did he return to the camp after he got there?

A No, the doctor stayed with the people until they came back from work.

Q What happened to prisoners who got sick while they were on the work detail?

A Anybody who got sick on the work detail would be carried back to the camp in the wagon which brought out the food.

Q When he was brought back, what was done with the sick prisoner?

A The sick man would come to the doctor, and the doctor would treat him medically.

Q Were those prisoners who got sick admitted to the hospital for treatment?

PROSECUTION: I object to counsel leading the witness, may it please the court, and ask that counsel be instructed to refrain from that.

PRESIDENT: Objection sustained.

Q Where were these prisoners treated?

A Up above there, there was a hospital space erected. There was a dispensary, and there in the first room the doctor would treat them.

Q From March 16th, or whatever date it was that you were made work commitment leader, approximately how many prisoners died who were in the work detail?

A There was a big epidemic which broke out, typhus, fleck typhus, whatever it was.

Q Approximately how many people died, after you arrived at the camp, from the epidemic?

A It could have been around 200, or even over 200.

Q Going back to the roll call in the morning and evening, when Schwanner was present at the roll call, were you standing in such position that you could see him?

A Yes.

Q Did you ever see him beat a prisoner with a pistol on the roll call square?

A No.

Q Did you ever hear of it?

A No.

(PATTON-Direct)

Q If that had happened during the time you were in Oertraubling, would you have heard of it?

A I would have had to see it, because I was always standing in his immediate vicinity than, or I would have heard about it from the prisoners or from the guards.

Q Do you know whether or not Schwanner carried a pistol on these roll calls?

A He didn't carry any pistol at all. There was a pistol in the camp, and he gave it to the block leaders when they went into the camp, because when they went into the camp, they weren't allowed to carry rifles.

Q Did he ever carry a pistol?

A No.

Q Do you know if he owned a pistol?

A He had owned a pistol, but he had given that to the block leader.

Q Do you know a prisoner in the camp named Outman?

A No.

Q Do you know a prisoner by the name of 'swed?

A No.

Q What was the condition in the camp during the time you were there with respect to the feeding and care of the prisoners?

A The prisoners' food was good, and besides that, the commando leader intervened and got some food from the flier squadron there, and various farmers, and got a number of hundred pounds of potatoes.

Q How many times did that happen?

A Four or five times. Besides that, we also got some turnips.

Q You mean the . ., or who did the food go to, the extra food?

A The food was driven down to the prisoners' kitchen, and under the prisoners' kitchen was a cellar, and the potatoes were peeled there.

Q Who ate it?

A That food ended up in the kitchen, and the prisoners got it as extra rations.

Q Did you ever see Schwanner beat anyone in the camp?

A No.

Q Or did you ever see him beat anyone on a work detail outside the camp?

A No.

Q Did you ever hear about it?

A No.

Q Did you ever see or hear of him mistreating a prisoner?

A No.

Q Did you ever see him shoot a prisoner?

A No.

Q Or hear of it?

A No.

Q Were there any official executions in Obertraubling while you were there?

A No.

Q Did any prisoners try to escape while you were there?

A When I was there, three men tried to escape.

Q Were any of them successful?

A One man escaped and succeeded, and two men were shot to death.

Q While they were escaping?

PROSECUTION: I object to counsel leading the witness, may it please the Court, and I again ask that he be instructed not to lead the witness.

PRESIDENT: Objection sustained. Mr. O'Connor, you will have to refrain from the use of leading questions.

Q Where were these two prisoners shot? I don't mean on their bodies, but in what location were they shot?

A Outside the wire enclosure.

Q Who shot them?

A A guard.

Q Did you see it?

A No, I didn't see it. After it was over, I was called over there, and the two men were already dead.

Q What was the nationality of those prisoners who were shot?

A I don't know any more.

Q Was the prisoner who made good his escape recaptured?

A No.

Q Were there any orders issued by Schwanner at Obertraubling with respect to the beating of prisoners?

A No.

Q As work commitment leader, did you issue any orders to the guards with respect to the treatment of prisoners on the work detail?

A The guards stay 50 meters away.

Q No, did you issue any orders as to how they should treat the prisoners?

A The prisoners were instructed that it was forbidden to attack any prisoner.

Q What about the capos?

A The capos were also not allowed to beat.

Q Do you know Schwanner's general reputation among the prisoners in Camp Obertraubling?

A His general reputation among the prisoners was good.

Q On what do you base your opinion?

A First of all, he saw to it that the prisoners got extra rations.

(PATRON-Direct)

Q Anything else?

A And in the second place, during the first week, he sent me as a messenger to Flossenburg to pick up some medicine to bring back to give to the doctor so that he could take care of the prisoners, and the prisoners health would be taken care of.

Q Anything else?

A I know that on one occasion, he went himself to Regensburg and bought medicine with his own money, and he sent me there on two occasions also.

Q To get what? Sent you there to get what?

A He sent me to Flossenburg for medicines.

Q Mr. Patron, did you take part in the evacuation march?

A Yes.

Q In what capacity?

A At the last, I was column leader.

Q How many columns were in the march?

A We were the last marching block. The first block consisted of sick people who were being brought to Dachau by automobile.

Q How many people were in the sick detail?

A It could have been 30, or more than 100.

Q What date did they leave, do you remember?

A It was the 16th of April.

Q On what date did you leave?

A It was the 18th of April when we, the last block, moved off.

Q Approximately how many people were in that column?

A In the whole column, I would say 200 to 230.

Q Before your marching column left, were any orders issued to the guards with respect to the treatment of prisoners who could not keep up the march, or sick prisoners?

A An extra order was given out, according to which it was said that no prisoner would be shot there who was trying to escape, and that all sick prisoners should be brought to Dachau.

Q By what method were they to be brought to Dachau?

A The commando leader took care of that himself. He went to the commandant of the fliers' squadron there and he got hold of some automobiles and some tractors.

Q What were your duties on the first days of the march?

A You mean, when I got to Obertraubling?

Q No. You say that you were column leader in the latter days of the march. What did you do on the first days of the march?

A That was the first days of the march.

Q You were column leader all the way to Dachau?

A Yes.

Q Did you issue any orders to the guards during the march with respect to the treatment of prisoners, or not to fire at escaping prisoners?

A It was expressly said that no harm should be done any prisoner, that no prisoner should be shot to death or harmed in any other way.

Q Did any prisoner attempt to escape on the evacuation march?

A Not when we were marching in closed columns, but at night, a whole number escaped.

Q Approximately how many escaped successfully during the course of the whole march?

A At least 30 to 40 men escaped.

Q How many prisoners couldn't keep up with the march, or became sick?

A The automobile came up to our quarters there, and the commando leader up front sent the automobile back with the remark that any sick

people should be loaded on to the wagon and should be brought into the first quarters which we would make.

Q By "commando leader," do you mean Schwarner?

A Yes.

Q How many people got sick on that march and had to be picked up by a wagon?

A There were at least 40 or 50 men sitting in this auto.

Q How did they proceed to Dachau?

A We marched very slowly, and we didn't know exactly where we would make our first quarters.

Q I mean, how did the sick people go to Dachau, not you?

A The sick people stayed back from the main column under the supervision of a corporal, or some other non-commissioned officer, and then they were transported by means of a fire engine, auto.

Q How far did that fire truck, or whatever it was, take them?

A This fire engine went all the way to Dachau.

Q When did the sick prisoners arrive in Dachau with respect to the time of your arrival?

A They arrived two or three hours before we did.

Q How was the food carried that was fed to the prisoners and to the guards on this march?

A We had food along with us up until we made our first quarters in Altheim, or whatever the name was.

Q What happened next?

A And then in Altheim, there was a wagon hitched up to a tractor with baggage and food on it for us, and that was supposed to go ahead and meet us at our next quarters, but I heard that this was bombed under way, or something. At any rate, we never saw it again.

PRESIDENT: Court will adjourn until 1:30.

(Whereupon the court adjourned at 1200 hours.)

Camp Dachau, Germany
21 November 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1340 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present except Mr. Winter who is absent on business for the prosecution, all the personnel of the defense are present except Mr. Hall and Dr. Hacker who are absent on business of the accused, all the accused are present with the exception of Lipinski, Oswalt, Losch and Meye who are ill, and Dr. Schmitz and Bongartz who are conferring with counsel. The interests of the accused who are absent are being taken care of by counsel.

The witness is reminded that he is still under oath. If there are any spectators who expect to be called as witnesses in this case, will they please leave the courtroom.

PRESIDENT: Continuation of direct examination.

JOHANN PATRON, a witness for the defense, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION

QUESTION BY MR. O'DONNOR:

Q Mr. Patron, before the noon recess you testified that the truck carrying the food was either destroyed by fire, bombing, or something, and you never saw it again. On what day of the march did that take place?

A On the 19th or 20th of April.

Q Do you know how the food was procured from that time on?

A As we marched on, commando leader Schwanner went on his bicycle and acquired food for us, as well as quarters.

Q Do you know where he got that food?

A He bought potatoes from the farmers and got them cooked.

Q All during that march, do you know if any prisoners were shot, either escaping prisoners or prisoners who could not carry on the march?

A No, I know of nothing like that.

Q Did you hear any shots fired?

A No.

MR. O'CONNOR: No further questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You have had a lot of experience in concentration camps, have you not?

A Yes.

Q You first went to Mauthausen in 1939, is that not true?

A Yes.

Q How long did you remain at Mauthausen?

A I stayed in Mauthausen until January, 1941.

Q What were your duties there?

MR. O'CONNOR: I object to that as not being proper cross examination because we have no interest in Mauthausen here.

PROSECUTION: May it please the court, I would like to establish the background of this witness to show his interest so that the court may properly evaluate his testimony.

PRESIDENT: The objection of Mr. O'Connor is overruled.

THE WITNESS: I was merely a guard in Mauthausen.

(Patron - Cross)

QUESTIONS BY THE PROSECUTION:

Q When did you leave Mauthausen?

A In January, 1941.

Q Where did you go from Mauthausen?

A They were looking for farmers and handworkers in Auschwitz, and I went to Auschwitz because my native territory is Silesia.

Q How long did you remain at Auschwitz?

A I stayed around one-half year at Auschwitz.

Q And you went back to Mauthausen?

A No. I was transferred from Auschwitz to Buchenwald.

Q How long did you remain at Buchenwald?

A I stayed in Buchenwald until the 15th of June, 1944.

Q After you left Buchenwald, where did you go?

A I had to relieve a comrade in Herzogenbosch in Holland.

Q From there where did you go?

A I arrived in Herzogenbosch already sick and I was delivered into military hospital number 285.

Q What other concentration camp did you go to after you left that place?

A I was transferred to Gross Rosen after I was released from the hospital there.

Q When did you leave Gross Rosen?

A In September, 1944. I was sent out to the outside work detail near Breslau Diehrfurt.

Q From there where did you go?

A From there we came to Flossenburg.

Q Approximately how many meters long was the building that the prisoners occupied in Obertraubling?

A The building was more or less built as a square.

Q What were the dimensions of it in meters?

A 20 or 30 meters.

MR. McKAY: Let the record show that the accused Bengarts has returned to the dock.

QUESTIONS BY THE PROSECUTION:

Q That was the only building used to house the prisoners at Obertraubling?

A Yes.

Q How many meters high was it?

A That was a two-story building. Perhaps 10 meters.

Q Where was the hospital located at Obertraubling?

A That was in the middle of the building where the prisoners were quartered.

Q In other words, the hospital was in the barracks that the prisoners themselves occupied, is that correct?

A Yes.

Q You, as work commitment officer in Obertraubling, received instructions, did you not, as to how many men would be sent to the detail at Regensburg?

A We didn't send any people to Regensburg.

Q Did you not have a detail that worked on an airdrome near Regensburg?

A That was an airfield in Obertraubling.

Q On that detail, you received the number of men who were required to be sent to that place each day, did you not?

A Yes.

Q From when did you receive that?

A From the chief architect who had the work construction of the airfield under his direction.

Q Approximately how many men were assigned to that detail daily?

A On an average from 200 to 230 men.

Q That many men were sent daily, were they not?

A Yes.

Q Did you know all the prisoners in the Camp at Obertraubling?

A Yes, by sight.

Q Did you know them by name?

A No.

Q You stated that the prisoners' food was good, is that correct?

A Yes.

Q Is that true with respect to both quantity and quality?

A Yes.

Q Did you ever eat any of it?

A Yes.

Q Did you not know that, as a matter of fact, the prisoners there at Obertraubling were so hungry they had to resort to eating the roots of weeds that they dug up at the airport?

A It was forbidden for them to eat anything else. It isn't known to me that they ate anything else.

Q You never heard that prisoners had to eat the roots of weeds that they dug up at the airport in order to satisfy their hunger?

A No. I never heard that.

Q Did you not know that was one of the reasons why the capos and block leaders beat the prisoners at this place?

A I have no idea about that.

Q You would have heard about it if it had taken place, would you not?

A Yes.

Q In like manner, you would have heard about any killing that Schwammer had committed there in the camp, would you not?

A Yes, I certainly would have heard about that.

Q These prisoners that were confined there at Obertraubling were thin and emaciated, were they not?

A Yes.

Q You stated, did you not, that Schwammer got extra food for the prisoners.

A Yes.

Q Did you not know, as a matter of fact, that it was forbidden by law for Schwammer to get extra food for prisoners?

A No. He got special permission from the commandant whenever the commandant came on inspections. He asked him about it and the commandant gave him authority to buy it.

Q That was possible throughout all the camps, was it not?

A Yes.

Q You mention escapes. Is it not a fact that on one occasion a Pole had escaped from Obertraubling and he was re-captured?

A Yes.

Q That Pole was thereafter executed, was he not?

A No.

Q What happened to him?

A He came back into the camp again.

Q What happened to him after he got back in the camp?

A He was put back into the camp with his other comrades.

Q He received no punishment?

A No.

(Intrm - Cross)

On another occasion, three Russians escaped, did they not?

A I don't know what nationality they were.

Q There were three men, were there not?

A Yes, three men.

And these three men were brought back into the camp, were they not?

A No, one succeeded in escaping and the other two were shot to death.

Q You do not recall that three Russians were brought back into the camp and executed there by hanging in the camp?

A No.

Q If that had happened, you would have known about it, would you not?

A Yes, I would have heard about it.

Q Regarding these rollcalls that were held in the morning and evening, is it not a fact that in the evening the rollcalls would last sometimes as late as 8 o'clock?

A As soon as the work details were there, they took care of the rollcall in 10 minutes.

Q Is it not a fact that when the rollcall was not correct, they had to remain there until it was found to be correct?

A No, they immediately fell out and received their supper.

Q Even though the rollcall did not comply with that the figure should have been as to the total number of prisoners that should be present?

A That didn't make any difference. They fell out and received their supper.

From your experience in concentration camps, is it not a fact that that was an unusual procedure.

Q. [illegible] that question is objected to [illegible] argumentative.

PRESIDENT: The objection is overruled.

WITNESS: In the first years, people would have to stand in line and they would search for the people who were missing, and if they didn't find them, they would finally fall out.

QUESTIONS BY THE PROSECUTION:

Q Will you answer my question please?

A Yes.

Q From your experience with concentration camps, was that not an unusual procedure which prevailed at Obertraubling?

A No. As soon as the roll-call was taken care of, the people would immediately fall out.

Q That was the usual practice in other concentration camps you served in, is that correct?

A Yes.

Q You testified that the capos were not allowed to beat. Were S.S. men allowed to beat?

A Yes, the S.S. were also forbidden to beat prisoners and they always kept clear of the prisoners.

Q Prisoners were beaten there at Obertraubling, were they not?

A No, they were not beaten.

Q No prisoner was ever beaten at Obertraubling, is that correct?

A No, I know of nothing like that. I never saw anything like that.

Q Do you know a man by the name of Arendt?

A Yes.

Q Did he serve at Obertraubling the same time you did?

A Yes. He was a block leader.

Q He would know whether there were any beatings at Obertraubling, would he not?

(Patron - Gross)

A Yes.

Q If there were any beatings at Obertraubling you would have heard about them, would you not?

A Yes.

Q How many prisoners were at Obertraubling when you first reported there?

A It could have been 450 to 500.

Q How much more than 500 were there when you first got there?

MR. O'CONNOR: If the court please, that question is argumentative. The witness just answered 450 to 500 in the last answer.

PROSECUTION: I will withdraw the question, sir.

QUESTIONS BY THE PROSECUTION:

Q You arrived at Obertraubling on the 16th of March. Is that correct?

A Yes.

Q Did you know how many men reported to Obertraubling?

A As far as I know, the commando arrived with 600 men.

Q When you got there, approximately 150 of those men were dead, is that right? How many were dead?

A I don't know.

Q After you got there, approximately 200 to 300 died, is that correct?

A No, there weren't that many involved.

Q This morning, you testified that how many died while you were there?

A I know that people died but I don't know how many.

Q You did not tell the court this morning how many died?

A No.

(Patron - Cross)

Q It took you six days on this march from Oberpfaffenbling to Dachau, did it not?

A We left on the 18th and arrived on the 23rd.

Q During that time only 30 to 40 men escaped, is that not correct?

A That could have been just about the number that escaped - 30 to 40.

Q That is true even though the guards had orders not to shoot at any prisoner who attempted to escape, is that correct?

A Yes.

Q Is it not a fact that a Pole was beaten to death in the two or three days of that march because he was not able to keep up?

A No. The way it was reported to me was somebody got sick and died of a heart attack.

Q That heart attack took place after he was beaten. Is that not so?

A No. I knew of no beating.

Q Who was it that made that report to you?

A I got that from the commando leader, Schwanner.

Q As a matter of fact, it took place in his presence, did it not?

A I don't know.

PROSECUTION: No further questions.

PRESIDENT: Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Patron, you got all the way to Dachau, did you not?

A Yes.

Q How many men marched into the camp in that marching column?

A There were 40 to 50 men. They were the last ones with whom I was marching.

Q You do not know how many marched in with the healthy prisoners?

A We marched away with about 250 men.

Q I mean how many men actually marched into Camp Jachmau?

A I don't know that because they marched in according to troops.

Q Were there ever days in Oberfreubling when you did not fill your quota of men on the airfield?

A No. We only sent those people off to work who were capable of working.

MR. O'CONNOR: That's all, sir.

PRESIDENT: Recross examination.

PROSECUTION: No further questions, sir.

PRESIDENT: Are there any questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL BURGHAM:

Q What were the nationalities of the prisoners in Oberfreubling?

A Those people in the clerk's office could know more about that.

Q I am asking you.

A Frenchmen, Lithuanians, Poles, Russians, and Germans.

Q Do you speak French?

A No.

Q Do you speak Lithuanian?

A No.

Q Do you speak Polish?

A Yes.

Q Do you speak Russian?

A No. I can't speak Russian.

Q Were you allowed to speak to the prisoners?

A As work commitment officer, I had the right to speak to prisoners.

(Patron - Court)

Q About what?

A We talked about whether they got their food or not; what they had coming to them; what they needed about laundry; different things.

Q You talked to the Russians about that?

A I didn't talk so much to the Russians about that but I talked to the Poles quite a bit.

Q Did they come up to you and start the conversation or did you start it with them?

A Whenever prisoners had personal matters they would turn to me.

Q Was conversation about Warrant Officer in the S.S., Schwanner, a personal matter with them?

A No, he wasn't mentioned.

Q How do you know what his reputation was amongst the prisoners?

A Because he was commando leader.

LT. COLONEL BURCHAM: Will you repeat the question please, interpreter.

(Whereupon the interpreter repeated the question.)

WITNESS: If he had been bad he would have had a bad reputation and nobody ever raised a complaint.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q You expect this court to believe that any subordinate will talk about any superior to him?

A I never carried on conversations only when they were carrying on conversations. I had private conversations.

LT. COLONEL BURCHAM: I have no further questions.

QUESTIONS BY LIEUTENANT COLONEL LAYLY:

Q Who issued the order that you shouldn't shoot at any escaping prisoners?

A Commando leader, Commander, gave that order.

(Patron - Court)

Q Did you not think th t was an unusual order?

A Well, he just gave this order. He said that these prisoners were being transferred to Dachau and if anyone tried to escape nobody would be allowed to shoot at them and no one escaped.

Q No one escaped?

A No. Nobody escaped when we were marching, only in the night.

Q Did the guards have rifles?

A Yes.

Q You did not need them did you, if you were not going to shoot?

A Every soldier carried a rifle with him and if he doesn't he isn't a soldier.

Q If he had orders not to shoot, it would be a deadweight. Do you not think it was unusual that he had orders not to shoot?

A That's true in this case, but every soldier must carry a rifle. He can't walk around with a stick in his hands.

Q This was an unusual case, was it not?

A At any rate we had rifles and carried rifles.

QUESTIONS BY THE PRESIDENT

Q You testified that the food at Obertraubling was good. At the same time, you testified that the prisoners were thin and emaciated at Obertraubling. Now, can you explain these two statements to the court?

A You can trace that back to the illnesses they had - typhoid, typhus, or fleatyphus. I don't know what all they had.

Q You further testified that the capos were ordered not to beat at Obertraubling. Did those capos carry out that order?

A Yes. I never heard that any prisoners were beaten.

(Patron - Court)

Q Did you ever see a capo beat a prisoner at all during the time you were at Obertraubling?

A No, I didn't see that.

Q Are you sure about that, now?

A Yes.

Q Did you ever hear of a capo beating a prisoner at Obertraubling?

A No.

Q Not in all the time you were in that camp at Obertraubling did you ever hear of a capo beating a prisoner?

A No.

Q You further mentioned that two prisoners were shot while attempting to escape. How many more were shot while you were there?

A I don't know of any other case.

Q These are the only two you know about or ever heard about?

A Yes.

Q According to your testimony, Antrem, Obertraubling appeared more or less like a convalescent camp. Is that the impression you want to give this court?

A It was not a convalescent camp. The people who could work went off to work and one detail took care of filling up bomb craters.

Q How did it compare with other concentration camps you were in?

A They didn't have it any worse than people in the big camps.

Q Do you mean by that conditions at Obertraubling were just about the same as at Mauthausen, Auschwitz, or Gross Rosen?

(Patron - Court)

A No. They got their right food, they put in their hours, and then they would come back from work.

Q There were no beatings. Is that the idea?

A No.

Q Now, Patron, in all the time you were in these concentration camps, did you ever see a beating?

A I never observed a beating.

Q Not a single one?

A The only thing I ever saw was one prisoner hitting another prisoner on the behind and then the other prisoner would run away.

Q That is the only occasion of beating you ever saw in all these concentration camps?

A Yes.

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q How were prisoners officially disciplined at Obertrumbling?

A That didn't happen.

Q All the prisoners were good. They never needed any discipline, is that right?

A I don't know of any.

Q How many guards did you have on the evacuation march?

A 30 or 40 guards.

Q What were they? Camp police or S.S.?

A They were S.S..

Q Did you post these guards at night when you stopped to rest?

A Yes, the guards were set out at night.

Q Who sent the guards out at night?

A The commando leader posted the guards.

Q Did you ever hear of the "25"?

A I don't understand the question. I don't know of the "25".

Q Did you ever hear of a prisoner being placed on a horse and given "25"? Did you not ever hear of the "25"?

A The two or three times I observed that, there were only 10 or 15 blows and they were beating each other mutually and then they ran away.

QUESTIONS BY THE PRESIDENT:

Q Where did that occur?

A Buchenwald.

Q Did you not tell the court a moment ago you never observed any beatings in all the concentration camps you had been in?

A I said, two or three times I saw it it took place in public and the prisoners were beating each other in the behind.

Q You stated a few minutes ago that you never observed any beatings and you also said you had never observed a beating in all the concentration camps you were in. Now the court wants to caution you that you took an oath to tell the pure truth, to add nothing and to omit nothing. Do you know what perjury means?

A Yes.

MR. O'CONNOR: I think we should have the record checked because my recollection is that the witness testified that prisoners were beating each other in the behind and running away.

PRESIDENT: Mr. O'Connor, I am not referring to previous testimony. I am referring to his answer.

QUESTIONS BY THE PRESIDENT:

Q Just how many beatings did you observe while you were at Obertraubling, or did you observe any there?

A None at all.

Q How were you armed on this evacuation march?

A I had my small pistol with me.

Q How much ammunition did you have with you when you started?

A Five or six rounds.

Q How much did you have when you got to your destination?

A I had the same number of rounds as I started with. I didn't fire any shots.

Q You had no occasion to shoot your pistol. Is that the idea?

A No.

PRESIDENT: Are there any further questions by any member of the court? Apparently not. Redirect examination?

MR. O'CONNOR: No sir.

PRESIDENT: Recross examination?

PROSECUTION: No sir.

PRESIDENT: The court understands that the defense has finished with this witness?

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness is excused.

(Whereupon the witness was excused and left the courtroom.)

PRESIDENT: The court will take a short recess for ten minutes.

(Whereupon the court recessed in place and reconvened at 1440 hours.)

PRESIDENT: The court will come to order.

MR. O'CONNOR: The next witness for the defense will be the accused number 42, Schwanner, who will testify in his own behalf.

CORNELIUS SCHWANNER, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q State your full name please.

A Cornelius Schwanner.

Q Do you wish to take the stand in your own behalf?

A Yes.

Q Schnauer, how old are you?

A 62 years and 2 months.

Q Are you married?

A Yes.

Q How many children do you have?

A Six.

Q How many grandchildren do you have?

A Three.

Q Where do you live?

A In Mondsee in Upper Austria.

Q Are you an Austrian citizen?

A Yes.

Q What is your occupation in civilian life?

A I have a shoewear store, and along with that, I manu-

feature sport shoes.

Q How much education have you had?

A Grammar School, High School and Specialist School.

Q How many years, all together, did you study?

A 12 years. 6 years Grammar School, 4 years High School and 2 years Specialist School.

Q What religion do you profess?

A Catholic.

Q Are you a member of the Nazi Party?

A Yes.

Q When did you join it?

A In March of 1938, when Austria was annexed.

Q Were you a member of the Allgemeine S.S.?

A Yes.

Q When did you join that?

A The same time I joined the party.

Q When did you join the Waffen S.S.?

A The first of September, 1939.

Q Did you see service in the First World War?

A Yes.

Q Would you give the court a very brief description of your military record?

A From September 1906 until October 1909. I was active soldier.

Q In what army?

A In Infantry Regiment No. 59, Salzburg.

Q Was that in the Austrian Army?

A Yes.

Q All right. Go on.

A From the first of August beginning of World War until 7 September 1915. I was in the Russian Front. 7 September 1945 I was seriously wounded and in the same night the Russians took me captive at the first aid station.

Q Where did you spend your Russian captivity?

A September, 1915, the Russians brought me to the hospital at Kiev and from Kiev to Moscow and in September 1915 from the hospital in Moscow, as a seriously wounded man, to Sretinsk.

Q How long were you in that location?

A I stayed in Sretinsk until 1916. A cholera epidemic broke out and about 12,000 prisoners died out of 15,000 in a very short time. After the epidemic, the Camp of Sretinsk was deactivated and we went back 40 kilometers to Pjistsihowanka near Tschita.

Q When did you return to your home in Austria after release from this camp?

A In 1917 in June another epidemic broke out in this place and two comrades and I decided to escape.

MR. McKAY: Let the record show that the Accused Heye has returned to the dock.

QUESTIONS BY MR. O'CONNOR:

Q Did you escape?

A Yes.

Q Did you serve in any other front in World War I?

A Yes. In the Italian Front.

Q What was the highest rank you attained in World War I?

A Up to Technical Sergeant.

Q What was the record of your service in World War II?

A Warrant Officer in the U.S..

Q When did you go into the army in World War II?

A As I already explained, first of September 1939.

Q Where did you report?

A On 28 August, I got an order from the local draft board to report on 1 September 1939 to the guard unit at Flossenburg.

Q To what duties were you assigned there as a guard?

A I was assigned to the company as a guard.

Q How long did you keep that position?

A Until around February, 1940.

Q What was your next assignment at Flossenburg?

A In February, 1940, I was promoted to Sergeant and had guard duty either with the chain of guards or with the main guards.

Q How long did that tour of duty last?

A I had guard duty until February, 1942.

Q From February, 1942, what did you do?

A In February, 1942, I only had indoor duty with the garrison, and then from time to time I helped out with the officer of the day. I was used then to train recruits in February, 1943.

Q Recruits for what?

A They were Czechoslovakian recruits.

Q How long did you train these recruits?

A Until July, 1943.

Q What were you assigned to do then?

A From July 1943 to November 1943 I received a work detail which was building the home of the commandant, Koegel.

Q Were you in charge of that detail?

A Yes, and about 25 prisoners.

Q What was your next assignment?

A In November, 1943, I came to the outside camp, Johanngeorgenstadt.

Q Was that an out-camp of Flossenburg?

A Yes.

Q In what capacity were you sent there?

A As work detail leader.

Q How long did you stay there?

A I stayed there until February, 1945.

Q Where did you go from there?

A In February, 1945, I was relieved from my duties and came back to the camp at Flossenburg on 5 February 1945.

Q How long did you stay at Flossenburg?

A 20 February 1945.

Q Then where did you go?

A I got the commando Obertraubling.

Q As detail leader?

A As detail leader.

Q Do you know why you were transferred from Johanngeorgenstadt to Obertraubling?

A Yes.

Q Why?

A The work director there made a complaint to the commandant, Koegel, that I had been taking it too easy and as a result of that I was removed from this detail with the whole guard.

(Schwanner - Direct)

Q How long did you remain as detail leader at Obertraubling?

A 20 February until 18 April 1945.

Q You mentioned the time you were transferred to Johanngeorgenstadt which was in November, 1943. Please explain to the court just what your duties were as detail leader of the out-camp Johanngeorgenstadt.

A The first 450 prisoners came in the middle of November, for the greater part Russians that came from Leipzig to Johanngeorgenstadt. There were about 1,000 prisoners in August, 1944. In the Fall of 1944, around September, the Apprenticeship Department of Leipzig was deactivated and came to my work in Johanngeorgenstadt. 140 juvenile prisoners, so that the number of prisoners increased to 1147.

Q You were in Johanngeorgenstadt for approximately 18 months, were you not?

A About 15 months. From November, 1943, to February, 1945.

Q Do you know how many prisoners died in Johanngeorgenstadt for any cause during that period of time?

A As far as I can remember, the whole 15 months we had 8 death cases and among them, 2 of these deaths were caused by the parties on cause. They drank some Ethyl Alcohol in the factory and both of them died from it.

Q Did you have cages in the camp at Johanngeorgenstadt?

A Yes.

Q Did you have a camp eldest?

A Yes.

Q Who appointed the camp eldest?

A He was designated by the Camp Flossenburg.

Q Did they consult you before they made such an appointment?

A No.

Q Schwanner, do you remember the testimony for the prosecution by a man named Hemmel?

A Yes.

Q Do you recall what evidence he gave against you?

A Yes.

Q Will you please state to the court anything you have to say about the charges he made against you while you were detail leader at Johann georgenstadt.

A I would like to clear up this matter in more detail. In the middle of August, 2 Russians tried to escape and they succeeded. About 2 weeks later the Gestapo in Karlsbad caught one of those 2. It wasn't really the Gestapo, it was the county police who turned them over to the Gestapo at Karlsbad. The Gestapo at Karlsbad called me up on the telephone and said they had received a prisoner in custody who had come from the concentration camp at Johanngeorgenstadt. I was supposed to come immediately and take a look at this man and if he belonged to my detail, take him along with me. I took a guard along and went to Karlsbad to take a look at him, recognized the prisoner, and knew he came from my camp. I took him back to my camp, and the next day, I delivered him back to Flossenburg with 2 guards. I made a report that the prisoner had been taken into custody by the Gestapo at Karlsbad and I said that this prisoner who had been captured was one of the escaped about whom I had already made a report. And I found out by the Karlsbad Gestapo they had already made a report about that to Flossenburg. The guards nevertheless took the prisoner back to Johanngeorgenstadt with the order that they should keep the prisoner in custody until another order could come in about him. And besides that, this Russian, Fedorenko, who reported that he had sat in on an interrogation at Flossenburg stated that 3 other Russians had escaped with him.

Q Who was Fedorenko?

A The Russian who had escaped. Konstantin Fedorenko.

PRESIDENT: The court will take a one-half hour recess.

(Thereupon the court recessed until 1505 hours.)

(Whereupon the court reconvened at 1535 hours)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Colonel Denson and Mr. Pinter who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Mr. Hall and Dr. Wacker who are absent on business of the accused; all the accused are present with the exception of Lipinski, Oswalt and Losch, who are ill, and Dr. Schmitz who is conferring with counsel. The interests of those absent accused are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave.

PRESIDENT: Continuation of direct examination, Mr. O'Connor.

MR. O'CONNOR: May it please the court, let the record be corrected to show that the correct spelling of the Russian about whom this witness has testified is F-e-d-o-r-e-n-k-o, first name Konstantin, K-o-n-s-t-a-n-t-i-n.

CORNELIUS SCHWANNER, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schwanner, before the recess you were explaining to the court what happened to the Russian, Konstantin

(Schwanner-direct)

Fedorenko, and I believe you said he was returned to Johann Georgenstadt until a further order was received in Flossenburg.

A Yes.

Q What happened then?

A The guards who returned the prisoners had written orders from headquarters that all of them, the three prisoners who had made an attempt to escape with them, were to be interrogated immediately, and that a report was to be sent to Flossenburg at once with reference to the result of the interrogation.

Q Proceed.

A I immediately interrogated the three prisoners since Fedorenko gave me their names. The three prisoners admitted that they had tried to escape together with two Russians. However, later on they stopped and returned to their place of work. And they also admitted that they had stolen civilian clothes in the works and turned the civilian clothes over to me. After that I made a report to Flossenburg but the only contents was that it was true the three Russians had made an attempt to escape but they had stopped to think and had returned to their place of work. They asked me to say nothing about the stolen things, otherwise they would have to expect the same fate as the others, and they promised not to try to escape again and to perform their work properly which they did do.

Q What did you do with the Russians and Fedorenko?

A On the 7th of September I received a telephone call from Flossenburg to the effect that a gentleman from the

Criminal Department by the name of Blomberg would come to see us on the very same day.

Q Is that the Blomberg who is present in the dock?

A Yes.

Q Go ahead.

A I was to provide quarters for him and I would receive orders from him in more detail.

Q Just a minute. From whom did you receive these orders?

A From headquarters in Flossenburg.

Q All right, proceed.

A At 8:00 o'clock on the same evening, Blomberg arrived by train. I was waiting for him at the station and he told me that he had to come to this place with reference to an execution. In the morning of the 8th of September 1944, Blomberg came to me in the office and showed me a written order from Flossenburg that the prisoner, Konstantin Fedorenko was to be executed.

Q By whom was that order signed?

A By Lt. Col. of the SS, Koegel.

Q Proceed.

A I then asked him what we could do about it because I wasn't familiar with this kind of methods. A thing like that didn't happen before. Then he told me that all the prisoners had to fall in. I told him that that wasn't possible because part of the prisoners were out on details to work.

Q Did the order provide that the prisoners all had to fall in?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. O'CONNOR:

Q What did the order state?

A The order stated that all the prisoners had to be present at the execution.

Q Go ahead.

A However, I only ordered the prisoners who were not out to work to fall in, and at around 9:00 o'clock in the morning, I don't know the exact hour anymore, the execution took place. Blomberg read the sentence before all the prisoners who had fallen in.

Q What was the method of the execution?

A By hanging.

Q Proceed.

A There were three interpreters, one Russian, one French, and one Polish, and they interpreted the sentence.

Q Who was present at the execution other than Blomberg and these interpreters and the prisoners?

A Blomberg, a doctor, and myself. I had to be present due to the fact that my prisoners had to fall in.

Q Now, the prosecution witness, Hommel, has testified that you drew a pistol at that execution. What do you have to tell the court about that?

A I cannot imagine how he can say such a thing. There is Blomberg sitting over there and he can testify to the fact that is not true. There was not the slightest reason to draw a pistol.

[illegible] you carrying a pistol?

A. Yes.

Q. Did you take it out of the holster at any time prior to, during or immediately after that execution?

A. I only took my pistol out of the holster to clean it up.

Q. Were there any other executions, official executions, at Johanngeorgenstadt during the period of time you were detailed there?

A. No.

Q. Were there any unofficial executions during the time you were detailed there?

A. No.

Q. What were the hospital facilities for the prisoners at Johanngeorgenstadt?

A. The hospital was very well furnished.

Q. How many doctors did you have?

A. One, and one civilian doctor, the factory doctor. That is, we had one prisoner doctor and one civilian doctor.

Q. What was the nationality of the civilian doctor?

A. German.

Q. How about the nationality of the prisoner doctor.

A. Russian. [illegible] and was [illegible].

Did you have any nurses [illegible], either registered or practical nurses, in the hospital.

A. There were three medical nurses besides the doctor, [illegible], one hermacist, one [illegible], and one student of

([illegible] were [illegible])

medicine, a Pole, and as far as I can recall the third one was also a Pole, too.

Q What was the condition of the hospital with respect to the condition of the medicine and supplies?

A There were sufficient medicines. I had good connections with the pharmacist of Johanngeorgenstadt, and I had gotten this connection through Dr. Engelhardt, who was the factory physician there.

Q Are you referring to the physician in the town of Johanngeorgenstadt?

A In the city of Johanngeorgenstadt, yes, and at the same time he was the doctor at the Erla Works.

Q Mr. Schwanner, did any other prisoners ever attempt to escape?

A No.

Q While you were detail leader at Johanngeorgenstadt did any prisoners die because of lack of food?

A No.

Q What was the food situation in that camp?

A The food was very good in Johanngeorgenstadt. We would receive our food from the factory.

Q What type of work did the prisoners do in that camp?

A They were working in the airplane factory.

Q What was the nationality of most of the prisoners?

A There were prisoners of twelve nationalities there. The majority of them were Russians. Then there were 250

(Schwanner-direct)

Frenchmen, about 200 Poles, then there were Spaniards, Czechs, Belgians, one Canadian, Germans, Rumanians, Ruthenians, Slovaks, two Hungarians. I think that's about all.

Q What were the nationalities of the capos?

A. I assigned the capos in various ways, according to nationalities. I would assign French people to the French people, Poles to the Poles, Russian capos to the Russians, and if at all possible, I took one man who was German speaking, that is, who could speak German and could speak Russian and Polish and German.

Q What was the nationality of the camp eldest that was appointed in Flossenburg?

A German.

Q Is there anything else you wish to tell the court about conditions of the camp of Johanngeorgenstadt during the time you were there?

A No.

Q You went to Obertraubling in February 1945, is that right?

A Yes.

Q You remained there as detail leader until the camp was evacuated on April 18th, is that correct?

A Yes.

Q Do you recall the testimony of the prosecution witness, Szwed?

A Yes.

Q Do you remember that time?

A Yes, I remember.

Q Did you know him at camp?

A Yes.

Q The witness testified that you beat him with Browning pistol in March 1945.

MR. BIRKOWITZ: I think that is exceeding the testimony.

MR. O'CONNOR: I am reading from the record.

PRESIDENT: Read the question.

(Whereupon the reporter read the last question.)

PRESIDENT: Court will take a short recess.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order.

MR. O'CONNOR: May it please the court, I move to strike the question beginning "the witness testified".

PRESIDENT: Motion to strike on the part of Mr. O'Connor is sustained.

QUESTIONS BY MR O'CONNOR:

Q Mr. Schwanner, Szwed testified you beat a prisoner by the name of Monyek Gutman, that you beat him in March 1943 with a Browning pistol, as a result of which he died. Do you recall that testimony?

A Yes, I remember.

Q What do you have to tell the court about that?

A I can't understand how this man can say a thing like that. I'd like to explain it.

Q Go ahead.

A I took a look at the books which were introduced here as exhibits, the books of Flossenburg with reference to a Monyek Gutman, and I found 24 Gutmans in these books,

however, not a Monyek Gutman. I found one Maurice Gutman in the books under the number 4725, born on the 18th of September 1909 in Krakow, deceased on the 4th of March, 1945 in Obertraubling, and the others, the other 23 Gutmans were not in Obertraubling at all, none of them according to the book. They were in different camps. Consequently, this one Maurice Gutman can be the one in question.

Q Do you know the cause of death in his case?

A No, I don't know the cause of death, epidemic, those were the usual causes of death in any place.

Q What do you mean by you "don't know the cause, epidemic"?

A Well, the epidemic, the illnesses, typhus, dysentery, people were sick very easily.

Q Was there an epidemic in Obertraubling on or about March 5, 1945?

A Yes.

Q How long did it last?

A It was getting better around the 7th or 8th of April 1945 and it started on the second or third day after I arrived. On the second day the doctor already reported 46 people to me and on the 5th or 6th day they had already 200.

Q Can you tell the court how many people died as a result of that epidemic in Obertraubling?

MR. BERKOWITZ: That is objected to as calling for a conclusion on the part of the witness which he is unable to answer. There is no testimony to show he has sufficient knowledge to testify.

MR. O'CONNOR: I will withdraw the question.

CROSS-EXAMINATION BY MR. O'CONNOR:

Q Do you know how many people died in Obertraubling as a result of the epidemic at that time?

MR. SCHWARTZ: Same objection.

PRESIDENT: Will you repeat the question, please?

(Thereupon the reporter read the last question.)

PRESIDENT: The court at this time desire to ask the witness a question. You were the senior officer at Obertraubling at that time?

WITNESS: Yes.

PRESIDENT: The objection of the prosecution is overruled.

WITNESS: I already stated, in the course of an interrogation, that the notes which I had taken were taken away from me in Furstenfeldbruck and I gave the estimate of about 250 and I guess that was right.

QUESTIONS BY MR. O'CONNOR:

Q Did you attend all roll calls, Mr. Schwanner?

A Yes.

Q That is, when you were in the camp?

A Yes.

Q What time did you have these roll calls in the morning?

A Shortly before 7:00 o'clock.

Q What time did you have them in the evening?

A After the prisoners had returned to camp. That was around 5:00 or 6:00 or 6:15. That depended on when the prisoners moved in. They quit working at 6:00 o'clock

and the place of work was about three kilometers away from the quarters.

Q On the average, how long did those roll calls last?

A The roll calls were short, ten minutes at the most. The prisoners marched in, they were lined up, and I received the report and then they had to fall out.

Q I hand you a document which has been identified as Defense Exhibit 52 for identification and ask you whether you know what that is?

A That is the roll call square.

Q What is the whole document?

A That is the camp of Obertraubling.

Q And by whom was it prepared?

A I made the draft and then the accused, Becker, drew the sketch.

Q Did he draw it from information supplied by you?

A Yes.

Q And in your presence?

A In my presence.

MR. O'CONNOR: At this time the Defense offers Defense Exhibit 52 for identification, it being a diagram of the camp of Obertraubling.

PRESIDENT: The court understands you are offering this in evidence at the present time?

MR. O'CONNOR: Yes.

PRESIDENT: Any objections on the part of the Prosecution?

MR. BERKOWITZ: No.

(Schwanner-direct)

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive Defense Exhibit 52 in evidence and give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit 52 for identification was received in evidence as Defense Exhibit 52, is attached hereto and made a part of the record.)

MR. O'CONNOR: I ask the reporter to mark this document as Defense Exhibit 53 for identification, it being a diagram of the prisoners' barracks at Camp Bertraubling and includes the hospital, dispensary and workshops.

(The document referred to was marked Defense Exhibit 53 for identification.)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schwanner, I again hand you Defense Exhibit 52 which has been admitted in evidence and ask you where you stood in the roll call square at the time the roll calls were taken in the morning and in the evening? Will you mark the letter "S" at the point you stood during roll call? Where did the roll call leader stand?

A That was either here where the cross is (indicating) or over here where the table is. This small square here is the table of the roll call leader.

Q You mean the small square appearing approximately in the middle of the roll call square?

A Yes.

Q Please put the number (1) in the square where the roll call leader stood.

A The roll call leader - may I mention that?

Q Just a moment. You said that the report leader stood at two different places. In the first place put

"B 1" and in the other place, put "B 2". Where were the prisoners lined up on those roll calls?

A Over here. These lengthy things which I have drawn here, blocks No. 1, No. 2, and No. 3.

Q Please write "B 1", "B 2", and "B 3" where the three blocks were lined up for the roll call. How many ranks in each column of men stood there?

A There were five abreast.

Q Five deep do you mean?

A Yes.

Q Did you have a view of all of the men who were on the roll call square from where you stood?

A Yes.

Q If you had beaten a prisoner with your gun, would it have been visible to all the prisoners on that roll call?

A Completely, every single one would have seen it.

Q When you went to the roll call was it your custom to carry a pistol?

A At that time which was stated by Szwed, I didn't wear a pistol at all. The two witnesses which took the witness stand on my behalf testified to that already. We had only one pistol for official use and that was a Czech brand.

Q What was the caliber?

A 7.65 with 16 rounds of ammunition.

Q Do you know the make of the pistol?

A No, I don't know.

Q Do you know if it was a Browning?

A No, no, it wasn't a Browning.

Q What was the size of it, in centimeters?

A As far as I know, the small Czech pistol is 15 centimeters long. It was the small pistol for Czech officers. I never saw the brand until I received it from the quartermaster depot in Flossenburg.

For what did you have that pistol?

A I must have a weapon. The pistol which I used on my official duty in Johanngeorgenstadt I had to leave there. I had to turn it over to the new detail leader.

Q What do you mean when you say, the pistol you used?

A Well, you must have an official pistol, otherwise I wouldn't be allowed to go on outside details.

Q When you say, the pistol you used, do you mean the pistol you fired?

MR. BERNSTEIN: Objection to the question as leading.

MR. O'CONNOR: It is not clear to me what he means by "used".

PRESIDENT: Objection sustained. Reword your question.

QUESTIONS BY MR. O'CONNOR:

Q When you say you had this pistol, the pistol you used, will you please explain to the court what you mean by "used it", how you used it?

A I was carrying it.

Q Anything else?

A No.

Q Upon what occasion did you carry it?

A When I was on duty, and I didn't carry a pistol

at all for four weeks because there was only one official pistol and I had given it to the block leader because I didn't allow any block leader to go on duty with a rifle.

Q Do you recall the approximate date or exact date upon which you gave this pistol to the block leader?

A That could have been the 24th or 25th of February, when the first prisoners went out to work.

Q When did you get it back?

A On the day when the evacuation was started, on the 18th of April 1945.

Q Did you have a pistol in your possession at any time on or about March 5, 1945?

A No.

Q The witness has further testified that you not only beat him with your pistol but you kicked him in the stomach. What do you have to say about that?

A Well, I can't say anything to that because it's not true.

Q Mr. Schwammer, were you the first detail leader of the outcamp of Obertraubling?

A Yes.

Q Please describe to the court what the camp looked like when you arrived with your detail of 800 men.

A It was very bad.

Q Describe the physical characteristics of the camp at the time you arrived.

A On the 24th of February, prior to my departure, I had to report to the prison compound commander, Voelkner. I asked him whether everything was all right with reference

to food and quarters in the detail of Obertraubling, and he told me that he was there just a day before and they had returned and everything was all right with the exception of a few minor matters. And I asked him where I had to report there and he told me at the office of the Construction Director, Landschreiber. When I arrived in Obertraubling it was around 9:00 o'clock in the morning of the 21st of February. I reported to Major Landschreiber.

Q Who is he?

A This Construction Chief who was in charge of the work detail. I reported to him that I had arrived from Flossenburg together with 600 prisoners and he told me, "What are you doing around here, the quarters aren't finished yet. 1st Lt. of the SS, Voelkner was here the day before yesterday and he saw everything wasn't finished." And I told him that 1st Lt. of the SS, Voelkner had informed me that everything was all ready with the exception of a few minor matters. Then I went over to the quarters together with the Construction Chief in order to take a look. About ten civilian laborers were working there, masons and carpenters. There was no wire fence, no security measures; there were no beds available, just an empty room, that is, an empty building. I asked the Construction Director whether it was not possible to get another building to quarter the prisoners for the time being. He told me, "You go ahead and take a look at the

(Schwanner-direct)

whole field. There are about 100 buildings around here but only ruins are left because the planes and the flyers had done a fine job." There was nothing left to me except to pick out all the craftsmen immediately and to start working at once. I asked the Construction Director to provide some straw and blankets and he asked me for a few guards and prisoners along. We would receive straw immediately, he would see to it that we also got blankets, and it was nothing like the witness on the stand here testified to, that we did not receive straw before the fourth day. We received it on the very same evening and we also received blankets. Of course, the prisoners had to sleep on the floor until the bunks were established and as far as the guards were concerned, I gave orders to the leader of the guard platoon to see to it where he would quarter his guards. I couldn't bother about that, I was trying to get quarters for the prisoners.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order.

QUESTIONS BY MR. O'CONNOR:

Q Will you continue with your description of the conditions you found when you got to Obertraubling on the first day,

A Yes, when I went over to the camp to the quarters, in the morning of the 22nd, the prisoners' doctor reported

to me that already 40 prisoners were sick of dysentery. I had a Czech prisoner at the time who was Construction Engineer and he said that he was ready to establish and to furnish the quarters if I would provide the necessary workers. And I told him to pick out the prisoners who, in his opinion, would be fitted for the work. Due to the fact that there were already 40 sick prisoners, I gave him orders to build the hospital and the infirmary in the first place, and two rooms of the hospital were completed already on the 22nd, so that the sick prisoners could be accommodated in the quarters and the quarters were completed in about six or seven days. No prisoners had to sleep on the ground any longer.

Q When did you first get beds?

A We didn't get beds at all. There was a sufficient amount of wood, of lumber, and I gave orders to make bunks from one side of the wall to the other, throughout the entire room. And we put a lot of straw on the bunks and then we spread blankets over the straw.

Q When did you first receive the blankets?

A We received the blankets already on the second day. The blankets were available in the morning of the 22nd. Every man had three blankets.

Q When you wanted to get equipment such as blankets and straw, where did you have to requisition that?

A By the Todt Organization.

Q Where is that located?

A In Obertraubling.

Q Did you have any warehouse for that sort of thing in the camp you could draw from?

A No.

Q When you got there on the first day, was there a roof on the prisoners' barracks?

Yes, the rough construction was completed.

Q How many SS guards did you take with you in that transport to Obertraubling?

A 35.

Q Where did they sleep the first nights?

A In a building which was about 50 meters away from the prisoners' quarters and there were only ruins left, that is, the building didn't have a roof.

Q Did they have beds?

A No, not during the first day.

Q Did they have blank ts the first night?

A No.

Q Did they sleep on the ground?

A Yes, they slept on the ground as well as I did.

Q When did they get their first blankets and straw?

A They received the straw on the second day and the beds were furnished by the airfield, not until the 8th or 9th day.

Q Mr. Schwanner, you testified you had 40 sick prisoners on the first day you arrived in Obertraubling.

A Yes.

Q Did they become ill on the march up there?

A In my opinion they were already sick when they got there to Obertraubling. On the third or fourth day I had

a conversation with the prisoner doctor and I asked him about the cause of this high sick rate and he told me, "Well, there's no wonder, those are prisoners who came from Lublin to Auschwitz and from Auschwitz to Gross Rosen and from there to Flossenburg and he told me, I myself participated in these transports and I know what we had to go through." And I asked him didn't the prisoners report sick in Flossenburg and he answered me, "No one wants to stay in the camp."

Q What method of transportation did you use to go from Flossenburg to Obertraubling.

A By rail. There were two other transport besides this one. One transport consisting of 500 prisoners left for Ganacker; one transport of 500 prisoners went to Plattling; and one transport, my transport consisting of 600 prisoners, to Obertraubling.

Q Did the number of prisoners who became sick increase or decrease as you stayed in Obertraubling?

A During the first period of time it increased. Up to the second part of March it always increased constantly.

Q When did you complete that infirmary or hospital?

A The infirmary was completed during the first days, on the fourth day everything was ready.

Q Mr. Schwanner, I hand you a document marked Defense Exhibit 53 for identification and ask you to state what that is?

A These are the quarters of the prisoners.

Q By whom was it prepared?

(Schwanner-direct)

A I made a rough draft and then the sketch was drawn by the accused, Fischer.

Q On information supplied by you?

A Yes.

Q In your presence?

A In my presence.

MR. O'CONNOR: At this time the Defense offers Defense Exhibit No. 53 for identification, it being a diagram of the billets, prepared in the presence of this witness and to which he has testified. It includes the hospital and workshops and has a legend appearing on the bottom thereof.

MR. DERWITZ: Until there is some testimony that it represents true conditions, I object to its introduction.

MR. O'CONNOR: I will withdraw the offer.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schwannner, on approximately what date was the prisoners' barracks in the main building of the camp of Schertraubling completed?

A On the 25th everything was completed.

Q 25th of what?

A 25th of February 1943.

Q Does this diagram represent the true description of the completed building as you knew it in Bertraubling at that time?

A Yes, of course. The most necessary things were completed by that date and all the smaller things were completed later on. Of course, I didn't have a kitchen. I didn't have anything, as a matter of fact, and on the second day I was given eight field kitchens.

Q On what date, for instance, were the sleeping rooms for the prisoners completed?

A Well, as I already said, on the 23th. That was very necessary for us to have sleeping rooms. First the rooms for sick prisoners and then the sleeping rooms.

Q What does the entire diagram represent?

A The quarters of the prisoners.

Q What else?

A Over here (indicating) that's where the quarters, the sleeping rooms of the prisoners were. The rooms for the sick prisoners, the warehouse, the tailor shop, shoemaker shop, the quarantine (indicating).

Q Does this diagram represent the condition of that building from February 8th to the end, or as of what date?

A No, yes. On the 25th it was completed. On the 25th, as it is now. The rooms were completed already and I wanted to build the windows and the doors and all these small things. We had to fit stoves and things like that.

MR. SCHWARZ: If it please the court, I wish to respectfully offer at this time of Defense Exhibit 53 for identification.

PRESIDENT: The court understands you are offering this in evidence?

MR. O'CONNOR: Yes, sir.

PRESIDENT: Any objection on the part of the prosecution?

MR. BERKOWITZ: No.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive Defense Exhibit 53 in evidence and will give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit 53 for identification was received in evidence as Defense Exhibit 53, is attached hereto, and made a part of the record.)

QUESTIONS BY MR. O'CONNOR:

Q I hand you Defense Exhibit 53 which has been admitted in evidence and ask you to examine it and state to the court how many rooms were provided for sic prisoners?

A 1, 2, 3, 4, 5, 6, 7 rooms for sick prisoners.

Q What was the approximate size of those rooms?

A The size of the rooms varied. Two rooms were of a larger size but they weren't used at all. That was the room of the doctor over here (indicating).

Q What number are you referring to?

A No. 1 and there was one door from this room which went into room No. 2, 3, 4 and 5. Only the rooms 2, 3, 4, and 5 and the quarantine room, 10, were continuously occupied.

Q Did those rooms have beds in them?

(Schwarm re-direct)

A No, they were the same bunks as downstairs. We didn't have any beds available, we couldn't get any.

Q How many rooms were provided for isolated cases?

A No. 10.

Q How many doctors were there at that time?

A There were two doctors, two French doctors and one Polish student of medicine.

Q Were they all in one office of that building?

A All of them were in one office.

Q Where was this infirmary or hospital located? What floor?

A In the upper floor.

Q You are now referring to the first floor? How many sleeping rooms were provided for prisoners?

A The whole first floor was provided for the prisoners with the exception of room No. 2 which was the day room.

Q How many prisoners slept in each room?

A That varied with the room. There were rooms of various sizes.

Q What were the approximate dimensions of, for instance, rooms 7, 8, 9, 10 and 11?

A 7, 9, 10 and 11 were smaller rooms and 11 was the room of the camp oldest. It was occupied by the camp oldest, the prisoner ol rk, and another man.

Q What was the approximate size, in area?

A About 12 square meters, that's my estimate.

Approximately how many men would sleep in a room of that size?

A As I already said, three were sleeping in this room over here (indicating) and about ten or twelve in the other rooms. I left this up to the prisoners. They would occupy rooms according to nationalities or whenever they were friends they would live in one room.

Q And approximately how many prisoners would sleep in the larger rooms, four, five, and six?

A Four, five, and six - the largest room was five. About 150 to 180 prisoners must have slept in there. There were double bunks.

Q You mean in the three rooms?

A No, no, no. In one room. In this large room. Well, that is just a rough estimate. I can't say it exactly. I took a look at the quarters when they were occupied and everybody had enough space.

Q Who was the first doctor in Obertraubling?

A It was the troop doctor from the Air Corps.

Q What was his name?

A I can't recall his name. Unfortunately, I cannot. I had his name in my notes but I can't remember now. Whenever he came around I addressed him with his rank.

Q Did you make personal inspections of the hospital?

A Yes, every day.

Q And were you required to make any reports of any kind regarding the number of sick prisoners in this detail?

A Yes.

Q To whom did you make those reports?

A To the post physician at Flossenburg and there was

one report which I had to make to the troop doctor who lived about four kilometers far from our place. All cases of death had to be reported to the troop doctor immediately and also the cause of death, and after the document was certified by the troop doctor they had to go to the camp doctor in Flossenburg at once, and furthermore, the prisoners doctor had to make a report as to the physical conditions and the health conditions of the prisoners in the camp to the garrison physician in Flossenburg.

Q How often did he make that report?

A Every Saturday.

PRESIDENT: The court will adjourn until nine o'clock to-morrow morning.

(Thereupon the court at 1700 hours, adjourned until 0900 hours 12 November, 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8 POS
First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG
Case No.

~~*Summary~~
~~*Intermediate Military Court~~.
*General

Place DACHAU, GERMANY

Date 22 November 1946
0905 - 1640 Hours

~~Members of Court~~
WITNESSES:
CORNELIUS SCHWANNER
JAKOB JOOST
PAUL MUELLER
HUGO TRAEGER

Pages 7079 - 7161 Incl.
Prosecutor

Defence Counsel

Interpreter

Reporter

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

A - G O A D O F T E S T I M O N Y

in trial of

THE UNITED STATES Versus FRIEDRICH FLICK, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

NURNBERG, GERMANY BEGINNING 12 JUNE 1946

22 November 1946 0905 - 1640 Hours Pages 7079 - 7161 Incl.

T E S T I M O N Y

WITNESSES	Direct	Cross	Redirect	Recross	Court
CORNELIUS SCHWANNER	7079 7094	7097 7121	7123		7127
JAKOB JOOST	7133	7136	7138	7139	7137
PAUL MUELLER			7146	7153	
HUGO PANZER	7158	7160			

Camp Dachau, Germany
22 November 1946

MORNING SESSION

(Whereupon the court reconvened at 0905 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr. Hall, and Dr. Acker who are absent on business of the accused; all the accused are present with the exception of Oswalt, Losch, Lipinski, Fisbuach, Hauser, Wurst and Russfeldt, who are ill and D . Schmitz, who is conferring with counsel. The interests of those named accused are being taken care of by counsel.

Any spectators in the courtroom who expect to be called as witnesses in this case will please leave the courtroom.

PRESIDENT: All right, Mr. O'Connor, proceed with direct examination.

CORNELIUS SCHWANNER, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schwanner, at the close of yesterday's session you testified that the prisoners' doctor made a report on the physical condition and the health condition of the prisoners in the camp to the garrison physician in Flossenburg and that that report was made every Saturday.

A Yes.

Q Did you receive a copy of that report from the prisoners' doctor?

A Yes.

Q To whom did you make reports?

To the commandant's office, to the garrison physician in Flossenburg.

Q How often did you submit such a report?

A Every Saturday, with the prisoners' doctor.

Q Will you please explain to the court what was contained in those reports?

A In these reports the prisoners' doctor had to make known the mortality rate, the number of people who had died, and the cause of death in these instances; infectious diseases, people who had accidents in the work, dispensary cases and medicines which were needed.

Q That is the doctor's report. Is that what you passed on?

A Yes, I passed that on.

Q Did you submit any report of your own?

A Yes.

Q What did that contain?

A This report was only allowed to be sent to the garrison doctor in Flossenburg according to an order, but on my own initiative I also included a report for Commandant Koegel, to the office of the commandant, and sent that along, but I did this on my own initiative.

Q How often did you do that?

A Each week, every Saturday.

Q What was the additional information you submitted to the commandant?

A So that the camp would know what was going on out there and so the camp doctor would be in the picture.

(Schwanner-direct)

Q Please explain to the court what usually happened as a result of these reports that were submitted by the doctor and by you? I am speaking now of Obertraubling.

A Unfortunately, nothing happened. That is, the camp did nothing in spite of my many reports.

Q You mean Camp Flossenburg?

A Camp Flossenburg.

Q Is there anything else you wish to tell the court in connection with the health conditions of the prisoners at Obertraubling?

A Yes.

Q Proceed.

A In regard to this illness, I made further reports. First of all, to the authoritative troop doctor and to the staff doctor of the flyer squadron. I did that via the commander of the flyer squadron and I made another personal report to the health office in Regensburg and all the doctors appeared and took a look at the whole situation, and made the same verdict in regard to this illness as the prisoners' doctor had made. And beside that I called up the commandant of Flossenburg on the telephone as soon as the prisoners' doctor had determined what this epidemic was about and I told the troop doctor of the prisoners' squadron to immediately get in touch by telephone with the garrison doctor in Flossenburg and that was done.

Q What period of time are you referring to now?

A On the 4th or 5th of February this telephone call went in.

Q You say that these other doctors concurred in the diagnosis of the prisoners' doctor. What was that diagnosis.

(chwanner-direct)

A Typhus, dysentery and typhoid fever.

Q Mr. Schwanner, when did this epidemic you referred to subside, if it did at all?

A From the beginning of the second day onward, starting on the 22nd, the first case appeared.

Q 22nd of what?

A 22nd of February 1945.

Q Did it ever subside up until the camp was evacuated?

A Yes, the epidemic was already past when the camp was evacuated.

Q Approximately on what date had camp returned to normal with respect to the epidemic about which you talked?

A Around the 9th or 10th of April 1945 a doctor came from Flossenburg and there were only a few isolated cases.

Q Was that Dr. Geiger who testified here?

A Yes, Dr. Geiger.

Q This may be repetitious, sir, I don't recall whether I asked that or not. During that epidemic how many people died in the camp?

A I estimate the number to be about 250.

Q Did you ever get any replacements in that camp from the time you got there until the camp was evacuated?

A No, I was supposed to take some replacements. I didn't take any because I said I didn't want anymore men until the epidemic was over.

Q How many capos did you have in Obertraubling?

A It must have been around eight.

(Schwanner-direct)

Q What were their nationalities?

A These capos, they weren't really capos, they were so-called foremen, and the prisoners were split up into groups of 50 men in order to work and there was a foreman with each group of 50 men and they were the real capos. Most all of my prisoners were foreigners so I would assign a capo to a group of prisoners according to nationalities - a Pole would get a Polish group and a Czech capo would get a Czech group. I did that so the people could make themselves understood with the men. All my capos were foreigners.

Q You mean non Germans?

A No Germans.

Q Did you issue any orders to the capos with respect to the treatment of prisoners?

A Every prisoner knew about that. After the prisoners had all fallen in it was made public that beating was forbidden, prohibited. All the capos, the prisoners, knew that, and I made the same report, the same orders, known to the guards.

Q Please explain to the court whether that order was ever violated at Obertraubling?

A Only two reports came to me.

Q What were they?

A But not in regard to the capos but in regard to the block eldests.

Q What was the nature of the report?

A At the beginning I had a young block leader, his name was Guessmeier. I am not sure about the spelling, and a foreman came to me and reported the fact that this young man was carrying a switch around and was constantly beating the prisoners with it. I asked the foreman if that happened

very often and he said, yes, every day. I said, Okay, I will check up on it by myself." The next day I appeared at the place of work without being expected. Nobody knew I was coming and from a large distance away I observed this block leader and I saw with my own eyes this block leader. I saw that he was doing the same thing that the foreman had reported to me. When the block leader came back again at noon I immediately had him called in to see me in the clerk's office and I called him to account there.

Q Just a minute, Mr. Schwanner, please explain to the court how he beat these prisoners.

A I saw it with my own eyes. He either beat them on the fingers or the shoulder or the head. It wasn't any severe beating.

Q What was the size of the switch or stick he beat them with?

A 40 to 50 centimeters long and at the diameter in breadth, 1 centimeter.

Q Where did that take place?

A I called him into the clerk's office. I called him to account. I told him I had seen with my own eyes what had taken place this morning and he wasn't able to do that at all. He gave me a fresh answer and I had him relieved of his duties immediately and the next day I sent the same report to Flossenburg.

Q What happened to him?

A Later on, in April, when I got back to Flossenburg

myself I investigated what happened to this man and I found out that he had been transferred to Neuengamis. And the second report which was brought to me was in regard to this defense witness who appeared here, Arendt. A block eldest brought me this report. I called Arendt in to see me and asked him what was going on. I asked him whether that was the truth and he said, yes. I told him to promise me he would not do that again and that didn't happen again and in that case, for that reason, I just gave him a reproach.

Q Who was the person who did the beating in that instance?

A Arendt.

Q Do you know the names of the prisoners he beat?

A No, I can't give you their names.

Q How did he beat them?

A With his own hands. I had the various prisoners who were beaten come in to see me.

Q And those are the only two instances that you had during the time you were the detail leader at Obertraubling?

A Yes, those are the two instances which were reported to me.

Q Did you hear of any more from any other sources?

A No other report was ever made to me.

Q That is not what I asked you. Did you ever hear of anybody being beaten from any source other than a formal report?

A No.

Q Mr. Schwanner, did you take part in the evacuation march from Obertraubling?

A On the 5th of April 1945 I was in Flossenburg. I was there on official business. I went in to pick up some medicines. I took the opportunity to speak to Lt. Col. Koegel and I asked him whether there was any chance of my getting orders in case the camp would be evacuated. Koegel told me to be patient for the time being and that the order would go to the commander of the flyer squadron in Obertraubling. On the 14th of April I got a notice from the chief architect there, Kraus, and he said that the commander of the flyer squadron had notified him that the area would be evacuated within a few days. And I said, "Where am I supposed to take the prisoners?" and he told me that an order had come from Flossenburg that the prisoners should be taken to Dachau. I told the chief architect that I had so and so many sick prisoners and a lot of them couldn't make the march on foot and what was supposed to happen to them? Nobody was allowed to stay in camp, everbody had to go to Dachau definitely. And I said to the chief architect, "At least give me some vehicles, put them at my disposal, so I can put the sick people in them and take them to Dachau." On the 16th of April then, I got a truck of five tons with five trailers, in order to bring the sick people to Dachau. It is my recollection that there were about 80 sick prisoners, at least prisoners who couldn't continue the march, and on the morning of the 16th of April these 80 people were loaded onto the vehicle by the doctor. Ten or twelve guards accompanied this vehicle upon my order and they left around 9100 o'clock in the morning under the direction of T Sgt. of the SS, Kramer,

(Schwanner-direct)

and on the next day, because the chauffeur of this truck came back, I asked him how he had arrived in Dachau. He said there weren't any incidents. Two or three times they had an air attack and they had arrived around 5:00 o'clock in Dachau, on the 18th of April 1945.

Q After the sick people had departed from the camp in the truck, how many people were left in the camp to go on the march by foot?

A I estimate around 230. As I said yesterday, I had definite figures on that but these figures were taken from me in Fuerstenfeldbruck, so I can only estimate these numbers.

Q Prior to the 18th, the day on which the column started to march, what did you do with respect to the guards who were to go on that march?

A I told them that they had to be ready to march away on the morning of the 18th.

Q Anything else?

A I called the guards together and I gave them the corresponding orders.

Q What were they?

A I told the guards that no one would be allowed to shoot at any prisoners who were escaping and that sick prisoners and prisoners who could no longer continue the march were not allowed to be left behind, they were to be taken along into the next village and they were to be turned over to the mayor of that village and receive a receipt for them.

(Schwammer- direct)

Q That is all?

A No.

Q Describe to the court what took place on that evacuation march, starting with the 18th. How many columns were there, first of all?

A At 8:00 o'clock in the morning on the 18th, I received two cars at my disposal, a truck, a small car, and I put the food and the baggage of the people in this truck and for as much room as there was I put in a prisoner and a guard who couldn't make the march, and the second vehicle at my disposal was a tractor with a trailer and 60 to 65 prisoners were loaded on this trailer and they included the rather weak prisoners. And around 8:00 o'clock the rest of the prisoners marched away on foot under the command of Patron.

Q In what manner did you provide food?

A That's coming now. 9:00 o'clock I went away with the first automobile, that is, the one with the baggage and the food. I went up to within nine kilometers from Landshut and there I got some quarters in a barn and posted two guards there on the highway and they were supposed to tell the next automobile that came along where the quarters were so they could tell the people, and in the evening I got a report from T Sgt. of the SS, Patron, that he had made quarters in a factory about 20 kilometers in front of Landshut. I sent a messenger then to him on a bicycle with a message that on the next morning he should come down to Altheim and there would be a guard there on the highway and he would tell him where I was. And 2 or 3 o'clock in the afternoon of the 19th T Sgt. Patron arrived

with the rest of the prisoners and they used the same quarters [illegible] the night or the other prisoners. I [illegible] enough food along from Bortrebling to [illegible] any days so that the food situation was still in hand. [illegible] the morning of the 8th we all marched away. [illegible] my calculation officer and my clerk and a sergeant with the baggage car ahead. They were supposed to go by way of Landshut to Ingolstadt. I would form there and we would try to get another vehicle but no car came. I sent a sergeant on a bicycle back to Landshut and he was supposed to take a look around and see where the car was with the baggage and food but he couldn't find any. There was an air raid and afterward I found out that this car was supposed to have been shot at and set on fire by guns. Of course I couldn't verify that in any official manner. I just heard about it, just hearsay, and nobody came, neither the guards nor the sick prisoners nor the sick prisoners in the car who weren't able to continue the march. None of them turned up. They I marched forward.

Up to this point on the 20th did you have any sick prisoners on the march?

A No.

Did you have any that couldn't keep up with the march at that time?

A Usually not.

Go ahead with your story.

A [illegible] I then sent away from the stockade [illegible] found some quarters near some isolated farmhouses. There was a brick

(The omar-Tirset)

factory there. Inside this brick factory there was a a nice place for quarters and there is where we made our quarters, and then I went on ahead on the bicycle and took care of everything and saw that we got food. Toward 4:00 or 5:00 o'clock in the afternoon, T Sgt. Patron --

PRESIDENT: Court will take a short recess.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schwanner, a few moments ago you testified as to events that happened on the 20th of April 1945 on this march.

A Yes.

Q Now you have gone back and testified to things that happened supposedly ~~after~~ before that, on the 19th of April. Will you explain to the court what you mean by your last statement that you made quarters on the 19th in a different town?

A I must have made a slip of the tongue. That was the 20th. We were still in our quarters on the 19th and on the 20th we all marched away together.

Q From where?

A On the morning of the 20th from Altheim.

Q Where was it that this food truck was supposed to have burned?

A In Landshut in the morning of the 20th.

Q After that they, you explained about something that happened on the 19th.

A No, on the 20th.

Q All right, proceed.

(Schwanner-direct)

A On the 20th we spent the night there in the brick factory. In the evening the prisoners' doctor reported to me that a prisoner was seriously ill. I asked him what he was suffering with and he said that he claimed he had a heart paralysis and I asked the doctor whether he considered it absolutely necessary that this man be brought to the hospital. He said he would probably last until tomorrow morning.

Q What was the man's name?

A It was an Italian, I don't know his name.

Q All right, proceed.

A On the next morning, the 21st, as we marched away, I took care and saw to it that we got a small hand wagon and the sick man was placed on this wagon. Underneath him were coats, in order to bring him into the hospital in the next village but while this man was being delivered to the hospital in the next village, this man died and the doctor diagnosed his death as being traced back to paralysis of the heart and he was buried in a prisoners' graveyard.

Q Where did you go from there?

A We marched on. I don't know the names of all the tiny villages we marched through. I don't have any chance to look at the map and so I can't look up the names of all these little villages. And on the 21st we took up quarters again in a barn on a big farm and we got food there also. And on the 22nd, about five o'clock, we left there again. We marched away and during the march about 20 or 25 prisoners got bad feet, sore feet and I told Col. of the SS, Arendt, that is the witness who was here yesterday, that he

(Schwanner-direct)

should stay back with these prisoners and they should slowly try to catch up with us again and I got on my bicycle, drove on ahead and took care of getting quarters for the prisoners still capable of making the march, also food, and we stayed in an empty barracks of the S. S. Arendt sent a messenger on a bicycle after me that he had already taken quarters a short distance in front of where my quarters were. I went to the mayor of this village and I asked him whether he couldn't place an automobile at my disposal so that I could have it on the morning of the 23rd. He said, "That is completely impossible. Where could I get a hold of an automobile." I said, "All right, I have a number of sick people with me who have bad feet and can't continue the march. If you don't give me an automobile, I will see to it that they are all standing in front of your door tomorrow morning and you will have to accept them and give me a receipt for them." On the morning of the 23rd I went to the mayor again and I asked him whether he had an automobile he could give me. He said, no. I took T Sgt. of the SS, Krehle with me and I told him to wait there until Arendt arrived with the sick prisoners and I told him to tell Arendt that as soon as he arrived he should turn over the sick people to the mayor and get a receipt for them and I gave Patrol the order to march away with the prisoners who could still march. That was the morning of the 23rd. I drove on ahead on my bicycle all the way to Dachau in order to straighten out matters there. I arrived in Dachau around 3:00 o'clock and shortly after that Cpl. Arendt arrived with the automobile with the trailer and he had the

(Schwanner-direct)

sick people on the trailer and around 5:00 o'clock the T Sgt. of the SS, [illegible] arrived with the other prisoners and so the whole transport ended in in Dachau on the 26rd.

Mr. Schwammer, how many prisoners, if any, escaped on that march?

A I estimate eighty to one hundred escaped because as soon as the prisoners found out that this order was given that no prisoner would be shot at who was trying to escape they went off in droves and mostly at night.

Q Were any of them fired on by the guards?

A No, not one shot was fired.

Q How many ~~prisoners~~ Prisoners, if you know, did you actually deliver into Camp Dachau?

A I estimate 130 to 150 but I can't tell you for sure, I can't give you an exact number. Afterwards, several small groups arrived with the guards and we only had ten or twelve guards when we arrived in Dachau. The rest of the guards also escaped.

MR. IDE: Court will take a half hour's recess.

(Thereupon the court recessed at 1000 hours.)

(Schwammer redirect)

Ta 623
11/1950
ps-1
Closs.

MORNING SESSION

(Whereupon the court reconvened at 1005 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Mr. Hill and Mr. Hacker, who are absent on business of the accused; all the accused are present, with the exception of Oswalt, Losch and Wiplinski, who are sick, and Mr. Schaitz, who is conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Proceed, Mr. O'Connor.

CORNELIUS SCHWANNER, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schwanner, you stated in your examination a few minutes before the recess that the epidemic at Obertraubling broke out on the 4th of March, 1946. I beg your pardon, you stated it broke out on the 4th of February, is that correct?

A Pardon me, I must have made a slip of the tongue. The 4th of March; I wasn't in Obertraubling yet on the 4th of February.

Q You stated yesterday, Mr. Schwanner, that you knew the witness Sawed who testified against you?

A Yes.

Q Did he go on the evacuation march?

A It is possible I didn't see him at the end of the evacuation march. I can't maintain with certainty that he took part in the whole evacuation march or not.

Q Was he there when it started?

A Yes, he was here.

Q You don't know whether he marched into Dachau or not?

A No, I don't know that.

Q Mr. Schwanner, do you have anything else you want to state to the court in connection with your activities in either camp?

A No, I can't think of anything else to say. I have said everything.

Q How many times were you interrogated by the prosecution?

A The 26th of July, 1945, in Bunker I, I was interrogated for the first time.

Q By whom?

A By Dr. Dortheimer, or whatever his name was. Then I was interrogated by an American captain. I don't know whether that was in December or January, I can't remember exactly.

Q At the end of those interrogations, did you sign any statement?

A No.

Q Did you ever make a statement under oath?

A No.

Q Were you ever interrogated after that?

A Then I was interrogated by a Polish officer. I was interrogated by him twice, and I helped put down in writing what I had done in Flossenburg on the second occasion, and then Mr. Pinter interrogated me, and then the former prosecutor interrogated me, the colonel.

Q Is that Colonel Shaw?

A Yes.

Q Mr. Schwanner, I am referring now to the time you were interrogated by the American captain in December of 1945. Do you remember that?

A Yes.

Q Weren't you sworn in at that time?

A No. I had to take an oath before he interrogated me.

Q That is what I mean. He swore you before he made the statement?

A Yes.

MR. O'CONNOR: That is all. Sir, I want to ask him just about two or three more questions on behalf of the accused Schreiber, but I would prefer to do it after he makes whatever statement he has to make to the court.

PRESIDENT: There is no reason why the witness can't be recalled, as far as that is concerned. He can testify on behalf of one of the other defendants, or you can ask him right now if you care to.

MR. O'CONNOR: I will let it go for now. You have nothing further you want to say to the court?

THE WITNESS: No, nothing else now.

MR. O'CONNOR: No further questions at this time.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY MR. DERKOWITZ:

Q You were active in Flossenburg from September, 1939, to July, 1943, to November, 1943, before going to Johanngeorgenstadt?

A Yes.

Q Then you became commanding officer of the Johanngeorgenstadt detail, is that correct?

A Yes.

Q Where you were for a period of fifteen months?

A Yes.

Q Then you were recalled from Johanngeorgenstadt?

A Yes.

Q You stated that you were relieved of the command of that outcamp because of your treatment of prisoners. How do you know that?

A I know that from the commandant of the camp.

Q Did you have a conference with the commandant of the camp about that?

A Yes.

Q Where was that?

A In his clerk's office.

Q That was Colonel Koegel?

A Yes.

Q At what time did that conference take place?

A That was after I had come back from Johanngeorgenstadt. I came back on the 5th, and at this time Koegel was away on an official visit, and it was around the 8th of February, 1945, when we had this conference.

Q What did he tell you on that occasion?

A I asked him, the lieutenant colonel, why I was being relieved of my duties. I asked him whether there was any complaint, perhaps, which had come from the director of the camp, and he answered yes. I

begged the lieutenant colonel to tell me the contents of this report which had been made to him. He said the main thing concerned was the fact that I had been taking it too easy with the prisoners, and "we won't talk any more about that."

Q Did you ask him what he meant by "taking it too easy with the prisoners?"

A No.

Q Did he tell you what he meant by that term?

A No.

Q Was there anybody else present at that conference?

A No.

Q Were you ever given any information as to what Koegel meant by "taking it too easy with the prisoners?"

A No.

Q You didn't have a very high mortality rate at Johanngeorgenstadt, did you?

A No.

Q At Johanngeorgenstadt, the food was provided not by the camp but by the factory, is that correct?

A Yes.

Q Then, did you get any instructions as to how you should treat the prisoners when you went to Obertraublling?

A No.

Q Did Koegel give you any instructions?

A No.

Q Who fed the prisoners at Obertraublling?

A The organization Todt, construction corporation.

Q That feeding of the prisoners was under your direction, was it not?

Ta 623
11/22
ps-6
Floss.

A Yes.

Q You had a very high mortality rate at Obertraubling, did you not?

A Yes.

Q During the time between your release from Johanngeorgenstadt and the time you were sent to Obertraubling, you performed duties at Flossenburg, did you not?

A Yes.

Q At that time, you took part in the executions, together with Geisburger, as set out in your statement which has been introduced as Prosecution Exhibit 62, is that correct?

A Not with Geisburger, no. I only saw Geisburger once inside the arrest building.

Q That was at the time of the executions, was it not?

A It was on the occasion of an execution, but I wasn't present at the execution myself. I would like to have permission to make an explanation about that.

Q You can make your explanation later. Didn't you say in your statement that the following were present at the execution?

A Yes.

Q The adjutant, the mentioned physician, the Hauptscharfuehrer Geisburger.

A Geisburger was not present at the execution, and I didn't say that. I was asked when I had seen Geisburger, and I said I had seen him inside the arrest building on the occasion of an execution.

Q Answer the question and tell me whether or not you did not, in your own handwriting, write in your statement, which has been introduced as Prosecution Exhibit 62, the following, "The following were present at the execution, the adjutant, the mentioned physician, and Hauptscharfuehrer Geisburger."

(SCHMARNER-Cross)

A I can't remember that any more. I hardly believe that I did it, because that couldn't be true, because on the occasion on the occasion of this execution, Geisburger was merely in the arrest building, inside it.

Q When you came back from Johanngeorgenstadt, were you censured at all for your treatment of prisoners?

A No.

Q Do you mean to say that Koegel just told you he was dissatisfied, and that was all?

A No, he didn't say that, certainly not.

Q What did he say?

PRESIDENT: Off the record.

(Discussion off the record.)

PRESIDENT: On the record.

THE WITNESS: When I got back from Johanngeorgenstadt, Koegel said he was very much content with my work there.

QUESTIONS BY MR. BERNSTEIN:

Q Was that at Johanngeorgenstadt?

A Johanngeorgenstadt.

Q Didn't you state a few minutes ago that he called you back because he was dissatisfied, you were too easy with the prisoners?

A I didn't say that. When I got back, he said that he wished he could be rid of the people who were taking care of the work there, and I wasn't the only one who was released. All guards were released as well, because between me and the people who had charge of the work, there was always conflict.

Q He relieved the whole guard company at Johanngeorgenstadt?

A Yes. They all came back to Flossenburg, and a new set of guards was sent out there.

Q And the reason given was that you and the guards were too easy with the prisoners, is that correct?

A I don't know.

Q Didn't you just state so a few moments ago?

A Probably for that reason, but I don't know the exact reason.

Q Were you ever censured for the performance of your duties at Obertraubling by Koegel?

A No.

Q Was he satisfied with your treatment of prisoners at Obertraubling?

A I wasn't able to talk to him about that. He only came — I only saw him once. He made one visit on the 5th of March, and he came on that visit because of the report I had made, because of the bad quarters which the prisoners had and the bad state of health there.

Q Did he make any comment about the conditions he found?

A Of course, he wasn't satisfied with them.

Q Was he satisfied with you?

A He didn't say anything else.

Q He allowed you to remain in command until the end, didn't he?

A No, that isn't what I meant to say.

Q Did he or did he not allow you to remain in command of Obertraubling until the time of evacuation?

A There was nothing mentioned about that.

Q Will you answer my question, please?

A Yes, probably.

Q You stated that you did not report the two prisoners who confessed that they had contemplated escape and had stolen clothing, because had you reported them, that would have resulted in their death?

A It wasn't too involved; there were three people there, and they only made the report about an attempted escape, but there was nothing in the report which said that they had already stolen civilian clothing.

Q Did you know that it was customary to punish by death prisoners who stole clothing?

A Yes.

Q You know of cases of that sort?

A Well, I often heard people talking about the fact that people who had escaped and who had done burglary or had stolen clothes had been punished by death.

Q These prisoners who were punished by death were interrogated first by the Political Department?

A Whether the Political Department interrogated them in the commandant's office or not, I don't know. That is more than I know.

Q Who interrogated the man Fedorenko when he was sent to Flossenburg?

A According to the written order which I received, it was the commandant's office which did that, because 1st Lt. Baumgartner had signed this order which I got, and the report which I had to make, I had to make to the commandant's office, and not to the political Department.

Q But Blombere was the man who came down from Flossenburg to take care of the executions, is that correct?

A Yes.

Q Did you see the prisoners who went to Oberaudorf with him from Flossenburg? Did you see them before you left Flossenburg?

A Yes.

Q What was the number of the third

A The prisoners did not make a good impression on me. Before I left Flossenburg with these prisoners, before I took charge of them in Flossenburg, I asked these prisoners whether they were all healthy. I did that in the presence of 1st Lt. Voelkner, who was the leader of the Protective Custody Department. When I asked them, 30 to 35 prisoners fell out, and the leader of the Protective Custody Department, 1st Lt. of the S. S. Voelkner, then traded off 35 others for them in their places. The transport was supposed to leave at 3 in the afternoon, and because these people were shifted about, it didn't take off until two hours after that.

Q Mr. Schwammer, don't divert too much, just answer my question. Did you see these 600 prisoners before you left Flossenburg?

A Yes, I already answered that.

Q What was the impression they made on you as to their physical condition?

A I already answered that question. They did not make any good impression on me.

Q Do you know who selected these people to go on this transport?

A No, I don't know that. I merely took over the prisoners personally from the leader of the Protective Custody Department, 1st Lt. of the S. S. Voelkner.

Q Did you know before you left Flossenburg why these people were going to Obertraubling?

A No, I don't know that. The only word I heard was that I was supposed to report to the filler squadron in Obertraubling.

Q Were you told the prisoners were to work on the airfield.

A No, that wasn't told to me.

Q You discovered that after you got to Obertraubling, is that correct?

A I didn't find out about that until the chief architect in Obertraubling told it to me.

Q What was the kind of work the prisoners had to do down there?

A Took care of earth details. They had to build a runway.

Q And that was in the months of March, February and April, 1945?

A Yes.

Q How many prisoners would go to work every day?

A It all depended on how many people were well and how many people were sick. None of the prisoners went to work until the 5th day after we had arrived, because I told the chief architect that I would allow no prisoner to work until I was sure they had good quarters, and as far as I can remember, on the 5th day I was supposed to put 500 men to work, but everybody was so sick that I was scarcely able to get 400 men together.

Q What was the usual number of men at work at Obertraubling?

A That all depended. In the beginning, 350 to 380. I never had more than 400 people working. At the end, there were only 200, 250.

Q How many had died?

A At what time?

Q At the end.

A As I said, 250 had died at the end. That is the way I estimate it.

Q How many died in the first two weeks?

A As I remember, it was the beginning of March when most of the death cases took place, but I don't know how many it was. In March, the mortality rate ~~climbs~~ climbed.

Q Do you know what the causes of those deaths were?

A As I said, the diagnosis of the prisoners' doctor, as well as the other doctors who were brought to the scene of action upon our

request, was that the prisoners died because of the illnesses which they had already brought with them from Gross Rosen and Flossenburg, which they already had behind them. They were scarcely a few days in Flossenburg before they had to go out to an outside detail again.

Q The man in command of the section at Flossenburg was responsible for sending them out a few days after their arrival from the camps in the East, is that correct?

A What work leader?

Q I said, "command section."

A I don't know that.

Q Was the work commitment department responsible for sending these prisoners to work at Obertraubling a few days after their arrival from the East?

A I don't know anything about the things which the work commitment office did.

Q Do you know whether the camp physician examined these prisoners before they were sent from Flossenburg to Obertraubling?

A I asked whether the prisoners had been examined medically, and the camp eldest who had been assigned to me there said the prisoners had been in the bath and had received new underwear and prisoners' clothing, and there was a doctor present there.

Q Do you know who the doctor was?

A No, I don't know that.

Q Did you make any inquiry?

A No.

Q You say about 250 prisoners died of various diseases, and you assign fleck fever, typhoid and dysentery as the main causes?

A Yes.

Q How many died of fleck fever?

A I don't know.

Q Do you know how many died of typhoid?

A I know that the typhoid cases were isolated. I know that for sure.

Q About how many were there?

A I estimate, roughly, 10 to 12 cases of typhoid.

Q How many died of dysentery?

A That is hard to say. I had a complete list of the people who died and the illnesses involved. I had it all written out, but this list was taken away from me, and that all happened so long ago that I can't remember it very well.

Q You made weekly reports to Flossenburg as to the cause of death. Do you recall what these weekly reports contained as to numbers?

MR. O'CONNOR: I object to the question, sir, for the reason that it is a misstatement of the record. This witness testified he passed on the doctor's report as to the cause of death, and added a supplementary report of his own. He certainly is not qualified to give the cause of death of anyone.

MR. BERKOWITZ: May it please the court, I believe the court ruled that, as commanding officer, he knew the causes of death, or was informed about it.

MR. O'CONNOR: I think the witness knew the cause of death as told to him by the camp doctor, but not because of any diagnosis he had made.

MR. BERKOWITZ: May it please the court, the question deals with the report.

PRESIDENT: Read the question.

(Thereupon the question was read by the reporter as follows:
"Q You made weekly reports to Flossenburg as to the cause of death. Do you recall what these weekly reports contained as to numbers?")

MR. O'CONNOR: If the court please, I have no objection to

him answering the question if he qualifies his statement, "do you know what the report contained as to the cause of death," but I don't want it to go in the record that he made his diagnosis as to the cause of death.

PRESIDENT: The objection of Mr. O'Connor is overruled. At the same time, Mr. O'Connor, if that matter does come up which you suggested, then the court will entertain an objection; in other words, referring to a diagnosis that the witness may have made himself instead of the matter being an official report. Proceed.

QUESTIONS BY MR. BERKOWITZ:

Q May I have an answer to the question? Will you read the question?

(Whereupon the question was read by the reporter as follows:
"Q You made weekly reports to Flossenburg as to the cause of death. Do you recall what these weekly reports contained as to numbers?")

A On the numbers?

Q That is correct.

A Every day that was different. One day it would be three, another day four to five. I even know of one day in March when we had ten death cases.

Q Will you answer my question? What did those reports contain?

A The things involved in these reports were the number of people who had died, and the causes of death.

Q What numbers were given in these reports, if you remember?

A I can't remember that any more. My clerk took care of all these things, and passed them on. All that happened was that they were put in front of my eyes, and then they were passed on. They came to the troop doctor, and from him directly in the mail.

Q Didn't you have enough interest in these reports to study them and see what they contained?

A Yes, of course, I was interested in them. Of course, I read them through, but you can't remember all the details when there are so many, and you can't say such and such a thing was true. I can't remember individual incidents.

Q What treatment was given for fleck fever?

MR. O'CONNOR: That is objected to as improper cross examination. The witness is not qualified to answer that question.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. DERKOWITZ:

Q Did this physician consult with you as to the treatment that was given for fleck fever?

A No, he did not have a conference with me. I merely asked the troop doctor whether I could completely rely on the prisoners' doctor in this respect, and the troop doctor told me, "This big Frenchman, he is a very good doctor. I have known him for a long time, and you can completely rely on him," and the answer of the troop doctor was enough for me.

Q How many days were prisoners kept in bed, those prisoners who were suffering from fleck fever?

A That all depended on how seriously ill they were with the disease.

Q What was the average length of time?

A I am no doctor. How can I verify something like that? There were people in there for 14 days, some for three weeks, and some for a shorter period of time. It all depended.

Q Did you inquire of the physician as to the proper treatment for fleck fever?

A No, I am no doctor. I don't know anything about that.

Q You didn't ask him as to what the proper treatment was?

A He merely prescribed to me what medicines were necessary,

and I always saw to it that those medicines were procured, and I always told him that he should write out in writing what kind of medicines he needed, and as far as that was possible, we got hold of them.

Q How many cases of fleck fever did you have in Obertraubling during the time you were there?

A I believe that consisted of one-third of the mortality rate.

Q Did everybody who suffered from fleck fever die?

A No, definitely not.

Q How many people had fleck fever?

A That is hard to say. I estimated the number about 70 to 80. Dysentery was the main sickness.

Q You had 70 to 80 cases of fleck fever during the time you were in Obertraubling?

A That could be about right. I estimate that roughly.

Q You say that fleck fever accounted for about one-third of the deaths at Obertraubling?

A Yes.

Q How many cases of dysentery did you have?

A That is hard to say. I can't remember that any more. If I knew it, I would tell you.

Q How many deaths did you have from dysentery?

MR. O'CONNOR: The question is objected to as not proper cross examination. No proper foundation has been laid to the question.

MR. MERKOWITZ: May I answer him?

PRESIDENT: Objection sustained. If you can form the proper predicate for that particular question, Mr. Prosecutor, the court will entertain it.

QUESTIONS BY MR. MERKOWITZ:

Q You stated a moment ago that most of the deaths were caused by dysentery. On what do you base that statement?

A Because I could only talk to the doctor, and every day I went into the hospital, and the doctor himself verified to me that the main illness was dysentery.

Q Did the doctor inform you of the number of cases of dysentery that existed during the time you were there?

A No. The daily number of deaths arrived and they were passed on.

Q From the information that passed through your hands, about what percentage of deaths were caused by dysentery?

A That is hard to say. I can't answer that at all, because I really don't know it.

Q What percentage of the prisoners who suffered from dysentery recovered?

A Not many.

Q Did the doctor tell you what treatment he was giving the prisoners for dysentery?

A No, he didn't tell me that either.

Q Did you make any inquiry about it?

A No. We just talked about the various matters. It all depended. He would say, for instance, that so many people had died of dysentery and so many people had died of other diseases. He talked Latin jargon; I couldn't understand it all.

Q Were you sufficiently interested to get somebody to explain this matter to you?

A To whom should I have turned? There was nobody there.

Q Did you or did you not?

A There was nobody there to whom I could turn, even if I had wanted to do it. In the whole flier squadron, there was nobody there

but a company of emergency militia, many guards, and the prisoners. There was no doctor there where the fliers were. All the doctors were hours away.

Q Which doctor used the Latin jargon? Was that the prisoners' doctor or the troop doctor?

A With the prisoners' doctor and with the troop doctor, who came often and took a look at the situation.

Q Weren't you able to find out from either one of them what the proper treatment was for these diseases?

A No. These doctors would talk to me and talk to each other, but I didn't understand anything about what they said. I don't understand illnesses.

Q Did Dr. Geiger come down to investigate the situation?

A Dr. Geiger was there with me around the 9th or 10th of April. I was in Flossenburg and brought him there myself, and that was the first time a doctor appeared from Flossenburg as a result of any reports.

Q Did you make any request to the commandant at Flossenburg that a physician should be sent down who would be able to explain the situation to you?

A Yes, I did that myself. I made a personal request to Lt. Col. Koegel when he was with us.

Q When was he with you?

A On the 5th of March.

Q Did you renew that request?

A You could say weekly. Every time I asked for some medicines, I always put in a request that a doctor would come and look at the situation.

Q Did you get any reply to that request?

A No.

(SCHWAINER-Cross)

Q Did you telephone to Flossenburg and make that request over the telephone?

A In the beginning of March, that was no longer possible, because the telephonic connections were destroyed.

Q Did you go to Flossenburg personally to put in that request?

A On three occasions I sent a messenger to Flossenburg, and once I was there myself, and every time I asked for medicines, I also put in a request that a doctor come, and every time I did that, a report would come back to me that in the next few days a doctor would come, but no doctor ever came.

Q When did you go to Flossenburg yourself?

A The 5th of April.

Q Between the 5th of March and the 5th of April, you didn't go to Flossenburg to procure aid to help this situation?

A A report had come out that the leader of the camp was not allowed to leave his camp unless he had special approval of the commandant of Flossenburg, and as a result of that, I sent a messenger instead. First, I sent my calculating officer, and on the second occasion, a technical sergeant of the S. S. Patron, who was here on the witness stand yesterday, and the 4th time, on the 5th of April, I went myself.

Q When you went yourself, you were able to get Dr. Geiger to come back with you, is that true?

A Yes, I succeeded in that.

Q Did Dr. Geiger explain the situation to you as concerning the proper treatment of victims of these diseases?

A Dr. Geiger told me that he was satisfied with the prisoners' doctor who was there. He had also a rather long conference with the prisoners' doctors, both of them.

Q Did he tell you why he was satisfied?

A He said that this doctor knew what he was doing, and that he could treat the illnesses properly.

Q He was satisfied with the high death rate?

A Of course, he wasn't satisfied with that.

Q Did he tell you why he wasn't satisfied?

A He said, of course, that it seemed rather high, but in the face of this epidemic that had to be expected, and you had to wait until the epidemic had subsided before the mortality rate went down. And he said that the doctor had intervened correctly, and that if the doctor had not intervened, the mortality rate would have been still higher.

Q Almost all of the dysentery cases died, didn't they?

A Most of them.

PRESIDENT: Just a moment. Mr. Prosecutor, you are getting too much repetition in here.

QUESTION BY MR. BERKOWITZ:

Q What medicines did you request in your weekly report?

A I don't know that. I don't know the names of the individual medicines. I am not a doctor.

Q Do you know whether you got the medicines you requested?

A Well, special medicines that we requested, of course, we did not get. I went to Regensburg myself and tried to get medicines, and once I was able to buy some medicines in a drugstore for 92 marks because of the intervention of the troop doctor. That was only because the troop doctor put in a good word for me.

Q Did you know the prisoner Maurice Gutmann?

A No, I don't know him.

Q How do you know he died in an epidemic?

A Because there were other cases of death there, and he probably was among the death reports.

(SCHWAIGER-Cross)

Q That is merely a guess on your part?

A I can't say that with certainty, but no prisoner was ever reported to me that had died for any other reason, only because of the epidemic, and if there had been any other cause of death than that, it certainly would have caught my attention.

Q Do you know whether the prisoner Maurice ~~Gutman~~ Gutmann was known by a nickname of Monyek ~~Gutman~~ Gutmann?

A I don't know that.

Q Did you ever have prisoners come to you and make complaints about treatment which they received?

A No, nobody came.

Q Did you ever invite them to come in to complain in case they were mistreated?

A When all the people were drawn up in rank and file in public square, in the roll call square, I made a public announcement that anybody could come to me who had any complaint or personal desire.

Q But none of them came?

A There were two cases when people came and made complaints about the block leader. They have already been described. And then several people came with the request that they wanted to write letters on the outside, but no other reports came.

Q In your investigation of the conduct of Arendt, did he admit to you that he used a rubber hose?

A No, not a rubber hose. I never saw a rubber hose in my camp.

Q Has Arendt informed you that he admitted to the American authorities that he used a rubber hose?

A No, Arendt never mentioned that fact to me. On the contrary, I even asked him, in the presence of the lawyer here, whether he had ever made any explanation, given any statement, and he said no.

Q What was the position of Voelkner in Flossenburg?

A The leader of the Protective Custody Department.

Q Why did you not use the large hospital rooms at Obertraubling?

A Because the doctor didn't need them. I told the doctor they stood at his disposal if he needed them.

Q Did all these prisoners get sick at one time?

A No, definitely not.

Q The prisoners would go out to work and get sick at work, is that correct?

A There were very few cases.

Q Were they all sick at the beginning?

A Mostly. As I already said, we had more than 200 sick people. They were not seriously ill people. They didn't have to be kept in the hospital, but nevertheless, they could not work.

Q Where did they stay?

A In the quarters.

Q How many men were in the quarters ordinarily?

MR. O'CONNOR: May it please the court, I will request that the prosecution be requested to clarify that one question, "Were they all sick at the beginning?". I don't know myself whether he means the beginning of the epidemic or the beginning at the camp.

PRESIDENT: The objection of Mr. O'Connor is sustained.

QUESTIONS BY MR. MERKOWITZ:

Q When you say there were 200 sick at the beginning, what do you mean by that?

A That so many people were in the convalescent ward, and they were not capable of working.

Q At what time was that?

A Right at the very beginning there, on the fourth or fifth day.

The doctor said they were not capable of working, and therefore, we did not ask them to work. We let them stay in the convalescent ward. We always took care to carry out the doctor's wishes.

PRESIDENT: Just a minute, Prosecutor. There is too much repetition. You have been going over some of these matters time and time again.

MR. BERKOWITZ: I am trying to clear up the matter Mr. O'Connor has objected to.

PRESIDENT: Clear it up in a hurry.

QUESTIONS BY MR. BERKOWITZ:

Q Answer my question and don't divert. When you said at the beginning, four or five days after the beginning, do you mean four or five days after you arrived at the camp?

A Yes, arrived at the camp.

Q In your statement, which has been introduced as Prosecution Exhibit 62, you give the number of prisoners who went on the evacuation march by truck as 160. Is that the correct number?

A No, that was probably a mistake in writing.

Q Will you please answer the question?

A No, it was 80, not 160.

Q Was that statement made in your own handwriting?

A Yes.

Q Didn't you, on the occasion of a previous interrogation, state that the number of prisoners who left on foot was 130?

PRESIDENT: Let's clarify that. What is it now?

MR. BERKOWITZ: One hundred thirty. I am referring now to the foot transport.

THE WITNESS: No, that was 230.

Ta 623
11/22
pm-24
Flens.

QUESTIONS BY MR. BERKOWITZ:

Q Answer my question. Didn't you at the time you were interrogated previously, state that the number of prisoners who left on foot was 130?

MR. O'CONNOR: May it please the court, if the prosecution is going to continue with this line of questioning, I suggest that he let him see the exhibit. I believe it is Prosecution Exhibit 62. It is already in. Let him see that.

MR. BERKOWITZ: I am not referring to Prosecution Exhibit 62, may it please the court. I did refer to Prosecution Exhibit 62 in my first question. That has been answered.

PRESIDENT: The court would like to know right now, Mr. Berkowitz, just what you are referring to.

MR. BERKOWITZ: I am referring to a previous interrogation.

PRESIDENT: When?

MR. O'CONNOR: In that event, I think he should make that clear, because I thought he was still referring to the written statement, the exhibit.

MR. BERKOWITZ: May I answer that?

PRESIDENT: The court would like to have you clarify the matter as to what you are referring to.

MR. BERKOWITZ: May it please the court, I put two different questions. I referred in my first question to a statement made in his own handwriting, covered by Prosecution Exhibit 62, concerning the number of prisoners who left in the truck. My second question referred to the number of prisoners mentioned in a previous interrogation concerning the prisoners who left on foot.

PRESIDENT: Just what interrogation are you referring to in the second case, Mr. Berkowitz? That is what the court wants to know.

(SCHRAMMER-Cross)

Ta 623
11/22
pm-25
Fless.

MR. BERKOWITZ: I am referring to an interrogation made by Colonel Shaw.

PRESIDENT: And the date?

MR. BERKOWITZ: I don't have the date.

MR. O'CONNOR: Sir, there have been about six interrogations, and the witness has testified there was more than one by Colonel Shaw.

PRESIDENT: Do you know what the date of that interrogation was?

MR. BERKOWITZ: No, I don't have the date marked on it.

PRESIDENT: Anything further, Mr. O'Connor?

MR. O'CONNOR: No, sir.

PRESIDENT: That matter has been clarified for you?

MR. O'CONNOR: Yes, sir, except that if the prosecution is going to refer to former statements by this witness, I suggest that he refer to what interrogation he is talking about on each occasion.

MR. BERKOWITZ: May I answer that?

PRESIDENT: Proceed.

MR. BERKOWITZ: I submit that the question is a proper one. If there is any clarification to be made, it is the right of redirect examination to clear up anything that may be doubtful in the defense counsel's mind. I object to this kind of objection, which is made for the purpose of putting words into the defendant's mouth.

PRESIDENT: The objection is overruled, but, Mr. Berkowitz, it is a very difficult situation as far as this particular witness is concerned, unless you specify just what interrogation you are referring to, if this particular witness has been subjected to a number of them.

MR. BERKOWITZ: May it please the court, the witness was present at all interrogations, and he knows what he is speaking now. When I ask him if he stated at an interrogation that such and such was true, he was there, and he should know what he said.

PRESIDENT: The court has directed it to be clarified. It has been clarified, and the court feels it necessary, in a case of this nature, to be more specific in just what interrogation you are referring to. Proceed.

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Schwanner, in the interrogation conducted by Colonel Shaw, did you state to him that 130 prisoners left on the evacuation march on foot?

A If I have given that number, then it was a mistake of mine. There were 230 prisoners.

Q Also, the 180 which you said in your statement, Prosecution Exhibit 62, was incorrect and should have been 80, is that correct?

MR. O'CONNOR: That is objected to, sir.

PRESIDENT: Read the question.

(Whereupon the question was read by the reporter as follows: "Q Also, the 180 which you said in your statement, Prosecution Exhibit 62, was incorrect and should have been 80, is that correct?")

MR. O'CONNOR: I will withdraw the objection.

THE WITNESS: In that case, I must have made a mistake in writing. No other possibility exists. The first transport consisted of 80, and the second 230.

QUESTIONS BY MR. BERKOWITZ:

Q And you made mistakes in both instances?

MR. O'CONNOR: There is nothing in this record to indicate that the witness has said he made any mistakes in his statements to Colonel Shaw. I presume that Mr. Berkowitz is reading from an interrogation which was conducted by Colonel Shaw, and that these are from Colonel Shaw's notes there which are not signed by this witness. There is no reason to believe it is his mistake.

MR. BERKOWITZ: May I ask the reporter to read the answer to that question concerning the interrogation by Colonel Shaw?

Ta 623
11/22
pe-27
Floss.

(Thereupon the question and answer were read by the reporter as follows:

"Q Mr. Schwammer, in the interrogation conducted by Colonel Shea, did you state to him that 130 prisoners left on the evacuation march on foot:

A If I have given that number, then it was a mistake of mine. There were 230 prisoners.")

MR. BERKOWITZ: May it please the court, the record clearly shows there was a mistake on that occasion.

MR. O'CONNOR: The record does not say that. The record says, "if he made that statement." There is nothing in the record to show that mistake except those notes of the interrogation which Colonel Shea conducted.

PRESIDENT: The objection of the defense counsel, Mr. O'Connor, is sustained. The court will adjourn until 1:30.

(Thereupon the court recessed at 1200 hours.)

CAMP DACHAU, GERMANY
22 November 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1345 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all the personnel of the court are present; all the personnel of the prosecution are present except Mr. Finter, who is absent on business of the prosecution; all the personnel of the defense are present except Mr. Hall, Doctor Gauser, who are absent on business of the defense; all the accused are present except Nerz, Oswalt, Losch, and Lipinski, who are sick, and Doctor Schultz, who is conferring with counsel, the interests of these named accused who are absent being taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in this case, will they please leave the court room?

PRESIDENT: Continuation of cross examination, Mr. Hermoweg.

CONSTANTIN SCHWAMMER, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY MR. HERMOWEG:

Q Now, Mr. Schwammer, you stated you were present at the hanging of the prisoner, Tedorenko?

A Yes.

Q When did that take place?

A September 6, 1944.

Q Who carried out that hanging?

(Schwammer-cross)

A Blomberg, the leader of the political department.

Q Did he put the noose around the prisoner's neck?

A No.

Q Who did that?

A Two prisoners.

Q Two prisoners who were under your command?

A Yes.

Q Were these prisoners placed on the stool?

A Yes.

Q The prisoners adjusted the noose around his neck?

A Yes.

Q Then you gave the command to push the stool away?

A I didn't give any order at all.

Q Who gave the command?

A Nobody.

Q Who instructed the prisoners about kicking the stool aside?

A That was already stated before, when I was talking to Blomberg. I asked him if he had any instructions to give me, and the camp eldest was there. As I stated, I didn't have any personal connection with that matter, and I don't know how it was carried out.

Q You were present, were you not?

A I was present.

Q Who gave the instructions to the prisoners to kick the stool aside?

A Probably they had been told about that already up there in the shelter. I don't know.

Q Who gave them these instructions?

A During a discussion between me, Blomberg, and the camp eldest.

Q Were the two prisoners present during that discussion?

A No, they were not there.

Q Who conveyed the instructions to the prisoners?

A Probably up there in the shelter, I don't know.

Q That the instructions were laid down by you and Blomberg, is that correct?

A We were together.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect, Mr. O'Connor.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schwammer, you have testified that the feeding of prisoners was under your jurisdiction, is that correct?

A I didn't have charge of the feeding of the prisoners. That was up to the food office. It didn't come from me, it came from the Organisation Todt, because we get our food from that office.

Q In response to a question of Mr. Berkowitz, you testified that feeding of the prisoners was under your direction, is that right?

A Yes.

Q Was the amount of the food ration that you gave the prisoners under your jurisdiction?

MR. BERKOWITZ: That is objected to as being a leading question.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. O'CONNOR:

Q Tell the court what you mean by the feed distribution being under your direction.

A It was my duty to see to it that the prisoners get the food

rations that we got from the Organization Todt.

Was that the extent of it?

A On my own I saw to it that they got extra rations.

Q On the transport that went from Flossenburg to Obertraubling in February, 1945, did a doctor accompany that transport?

MR. BERKOWITZ: I object to Mr. O'Connor constantly leading the witness. This question is leading.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. O'CONNOR:

Who were the officials that accompanied the transport from Flossenburg to Obertraubling in February, 1945?

A Nobody except me as the detail leader.

Q Was there anything in the statement signed by you, which has been introduced and admitted as Prosecution Exhibit No. 62, or did you ever give any information in any other statement, that would lead anyone to believe you had any medical training?

MR. BERKOWITZ: I object to that. The document is the best evidence. Secondly, the question is leading. It certainly calls for a conclusion on the part of the witness.

MR. O'CONNOR: Sir, I should like to be heard on that.

PRESIDENT: Proceed.

MR. O'CONNOR: Mr. Berkowitz went into some detail in cross examination as to whether this witness did anything about the proper treatment for the cure of dysentery, flek fever, or typhoid, and asked him why he did nothing about checking this or taking proper steps for the treatment of these diseases. I am merely trying to find out if he had any training which would qualify him to do that.

PRESIDENT: The objection of Mr. Berkowitz is sustained. The question is still leading. Simply rephrase your question.

MR. O'CONNOR: I will withdraw that question.

CROSS-EXAMINATION BY MR. O'CONNOR:

You stated on cross examination that you paid ninety-two marks for medicine in the town drug store at the time you were in Regensburg?

A Yes.

Q Where did you get the money?

A It was my own money.

Was it ever refunded to you?

A I have the bill. I sent this bill to Flossenburg, but up until the present moment I still have not got anything back, unfortunately.

Q Will you please state to the court just what Blomberg did in connection with the hanging in Schortraubling?

A Blomberg carried out the whole thing. He had the order for that. He had two orders. One order was already in the verdict, and the other came from the commandant of the camp that he was to carry out this execution. He showed me these orders.

Q By whom was the first order signed?

A Himmler, the verdict.

Q The verdict of what court?

MR. BERKOWITZ: May it please the court, there is nothing in the record to show there was any court proceeding involved. He is assuming a fact that is not in the record.

PRESIDENT: The court would like to call Mr. Berkowitz's attention to the fact that there is evidence before this court that there was an order involved. There must be some basis for the order.

MR. BERKOWITZ: That is the very question, sir. This is an administrative order, and there is nothing to show that it was a

judicial proceeding, as assumed by the question asked by Mr. O'Connor.

PRESIDENT: The objection is sustained.

MR. O'CONNOR: I move to strike the remarks of Mr. Perkowitz that this is an administrative order. There is nothing to that effect, either.

PRESIDENT: The motion of Mr. O'Connor is sustained. Proceed.

QUESTIONS BY MR. O'CONNOR:

Q You say this first order was signed by Himmler?

A Yes.

Q What was the order, if you can remember?

A I can't give you the exact text, but I know it was mentioned there. Five cases of burglary were committed under cover of darkness, and that occurred when the prisoner was escaping.

Q Five cases of burglary by whom?

A Konstantin Federenko.

Q By whom was the second order signed?

A Lieutenant Colonel Koegel, the commandant of the camp.

Q What were the contents of that order?

A Chief Criminal Secretary Blomberg had to carry out this execution according to this order.

Q Were both orders read to the condemned?

A Only one.

Q Which one?

A The first one from Himmler.

MR. O'CONNOR: It has been brought to my attention that in my preliminary remarks I questioned this witness about the execution in Flossenburg. It should have been Obertraubling.

(Schwanner-redirect)

MR. BERKOWITZ: May it please the court, the execution was not at Flossenburg or Obertraubling. It took place at Johanngeorgenstadt.

MR. O'CONNOR: I stand corrected again, sir. I should have said Johanngeorgenstadt, not Obertraubling.

PRESIDENT: The record will so indicate.

MR. O'CONNOR: To clear the matter up, I will ask the witness one question. Where was the prisoner, Fedorenko, executed?

ACCUSED SCHWANNER: In Johanngeorgenstadt.

MR. O'CONNOR: No further questions.

DOCTOR ENGELHOFER: I have some questions in behalf of the accused No. 1, Becker.

QUESTIONS BY DOCTOR ENGELHOFER:

Q Which officials for the camp were present when the transport went from Flossenburg to Obertraubling?

A The following were present when the transport marched out of the camp of Flossenburg: the adjutant, Baumgartner, 1st lieutenant, 1st Lieutenant Voelkner, and one doctor that was a captain of the SS.

Q The doctor was a captain of the SS?

A Yes.

DOCTOR ENGELHOFER: No further questions.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further.

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Schwanner, at the time of this hanging of Fedorenko at Johanngeorgenstadt, who was the camp commandant?

A I.

Q You were the commandant of the camp as well as the commando leader, is that correct?

A Yes.

Q Yes?

A I was only commando leader. A camp commandant can only be an officer.

Q Well, that is the point I want to clear up. Were you the lager fuehrer or the commando fuehrer?

A Commando fuehrer.

Q Who was the lager fuehrer?

A There wasn't any camp leader there. That was at the outside camp of Flossenburg.

Q Then you were the senior SS man on duty at the lager at the time?

A Yes.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q You volunteered for duty as concentration camp guard?

A No, that is not right.

Q How did you get there?

A As I already said in my testimony, on the 28th of August I got a call from the draft board that on the 1st of September I would be transferred to the guard unit at Flossenburg.

Q How old are you?

A Sixty-two.

QUESTIONS BY LIEUTENANT COLONEL SKINLVID:

Q Did you ever have any cause to discipline any prisoner while you were at Obertraubling other than the two block leaders you have

mentioned?

A No.

Q Did you ever have any of your prisoners steal food?

A That happened.

Q What did you do to them when you caught them?

A I didn't do anything. What should I do? Nothing but sick people were there. What should I do in such a situation?

Q Did they ever steal clothing?

A No, it was not possible to steal clothing at Obertraubling.

Q You never had any reason at all to discipline your prisoners while you were there at Obertraubling?

A No reports came to me.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q Was there as much mistreatment in Flossenburg as in Obertraubling?

A I have no idea about that. I have never got in the camp of Flossenburg. In Obertraubling nobody was mistreated.

Q How do you know anything about mistreatment in Flossenburg then?

A I don't know anything about mistreatments there. Of course, during the long years we heard about various mistreatments, but I don't know if it corresponds to the facts.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Redirect?

MR. O'CONNOR: Nothing, sir.

PRESIDENT: Recross?

MR. BORKOWITZ: Nothing.

PRESIDENT: The court understands that the defense has finished with this witness?

MR. O'CONNOR: No, sir, I have not. I want to ask him a few questions on behalf of the accused, Schreiber.

PRESIDENT: Just a moment, Mr. O'Connor. Schwammer, the court will give you an opportunity at this time to make any explanation or statement you desire to make to the court.

ACCUSED SCHWAMMER: Thank you very much. I don't wish to make an explanation now, but I would like permission to make one later on in case something comes up.

PRESIDENT: If you desire to make any statement or explanation, the court will receive it now.

ACCUSED SCHWAMMER: Not for the present, No.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place and reconvened at 1410 hours.)

PRESIDENT: The court will come to order. Proceed, Mr. O'Connor.

MR. O'CONNOR: If it please the court, I am asking these questions on behalf of the accused, No. 41, Schreiber.

PRESIDENT: Is this a form of cross examination?

MR. O'CONNOR: No, sir, direct.

QUESTIONS BY MR. O'CONNOR:

Q Earlier in your direct testimony when you were giving the history of your military service, you stated that in February, 1943, until July, 1943, you trained recruits, is that correct?

A Yes, 1943.

Q Where did you perform this duty?

A Flossenburg.

Q Just where in Flossenburg?

A In the camp.

Q What were your duties at that time?

A I had to train recruits. We had an order from the commandant's office to train infantry recruits.

Q How far away from the enclosure of the camp did this training of recruits take place?

A Away from the enclosure? That was a long way off. They were quartered way up there in the 35 barracks outside the wire enclosure.

Q Approximately how far in meters?

A Five meters. It was about five meters from the end of the barracks to the wire enclosure.

MR. O'CONNOR: Will you come over here to the map and point out to the court just where you did this training of recruits?

ACCUSED SCHAMMER: There were the quarters (indicating).

QUESTIONS BY MR. O'CONNOR:

Q Quarters of whom?

A The recruits' quarters. The place where the recruits were trained was on the sport field. That was about two and a half, three kilometers away from the camp, that is, going out in this direction. (Indicating). And here is the exit. We went over in this direction. (Indicating).

MR. O'CONNOR: Let the record show that the witness has pointed to a block which is marked in black and is the second block from the top, and the second block from the lefthand side of the diagram, Prosecution's Exhibit No. 5, as the barracks heretofore identified as 35 barracks. Let the record further show that the witness pointed out that the training ground, or the sports place, was two and a half to three kilometers north of the block identified as the recruits' barracks.

(Schammer-redirect)

QUESTIONS BY MR. O'CONNOR:

Q Did you know a man in Flossenburg by the name of Schreiber?

A Yes.

Q Will you look behind me and see if you can identify him?

A The first one on the right from the top row, No. 41.

MR. O'CONNOR: Let the record show that the witness was correctly identified No. 41 as Schreiber.

Q While you were on this training detail did you ever see Schreiber there?

A Yes.

Q What was he doing?

A Schreiber was assigned there as a representative, so to speak, of the company leader, that is, of the recruit company.

Q What were his duties?

A He had to direct the training of the recruits.

Q Do you know when he arrived there?

A Schreiber probably got there around the beginning of March, 1943.

Q Do you know when he left?

A In June, the end of June when the training was finished. June, 1943.

Q How often did you see him?

A Every day.

MR. O'CONNOR: That is all.

PRESIDENT: Yourson?

MR. NEUROWITZ: Nothing, sir.

PRESIDENT: Are there any questions by the court? Apparently not. The court understands the defense has finished with this witness?

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness is excused. He will resume his place in the dock.

MR. McKAY: The next witness being called is Jakob Jocst, called on behalf of accused No. 12, Geisberger.

JAKOB JOOST, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DOCTOR SINGLINGER:

Q Mr. Joost, what is your full name?

A Jakob Joost.

Q How old are you?

A Fifty-one.

Q Are you married?

A Yes.

Q Where is your ordinary residence?

A Now it is Strumberg by Kreumberg.

Q Where are you located at the present time?

A In the special camp.

Q In Dachau?

A In Dachau Camp 2.

Q Are the American authorities holding you there?

A I am now in civilian internment arrest.

Q Why?

A Because I was with the guards, with the SS.

PRESIDENT: The court understands that you are still being held by the American authorities, is that correct?

THE WITNESS: Yes, I am here.

PRESIDENT: The court advises you that if you should be asked any question which might tend to incriminate you, that you have the right to ask the court's permission to refrain from answering that particular question. Do you understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Doctor Engelhard.

QUESTIONS BY DOCTOR ENGELHARD:

Q Mr. Joost, were you ever in Flossenburg?

A Yes.

Q What period of time?

A From September, 1944, until the beginning of March, 1945.

Q In what capacity were you in Flossenburg?

A I was technical sergeant of the SS with the guard unit.

Q During your sojourn in Flossenburg did you know a man named Geisberger?

A Yes.

Q Would you be able to recognize him again?

A Yes.

Q Please take a look around and see if you can point him out.

A Here he is. (Indicating)

DOCTOR ENGELHARD: Let the record show that the witness has identified No. 12 as Geisberger.

Q When did you get to know Geisberger?

A In February, 1945.

Q What job did Geisberger have in Flossenburg at that time?

A Geisberger was a first sergeant of the SS and had his duty as a roll call leader.

Q Did you have an opportunity to see Geisberger very often in the camp?

A Yes, I saw him very often in the camp.

Q Can you tell the court how Geisberger behaved, and especially how he treated the prisoners?

A As far as I saw, he was very decent toward the prisoners.

Q What do you mean by decent?

A When he spoke to the prisoners he spoke decently, and when in the presence of prisoners, he acted decently. He never beat anyone.

Q Was it among Geisberger's duties to hold roll call?

A Yes.

Q How long did this roll call take place, as a rule?

A On an average it went very fast, fifteen to twenty minutes at the most.

Q Did you have an opportunity to observe new arrivals in the camp?

A Yes, I often saw new arrivals in the camp.

Q Did Geisberger have anything to do with these new arrivals?

A They were counted off when they arrived in the camp, then they were brought inside the camp.

Q Where did they go after that?

A As far as I could see, they went to the bath, then they were split up among the various barracks.

Q After these new people arrived in the camp, how long was it before they were divided into the barracks.

A Sometimes at once, sometimes slowly, depending on the number of people involved.

Q Where were the new arrivals counted off?

A Directly in front of the main entrance of the camp.

Q Did you have occasion to observe the condition of the new arrivals?

A Very often the prisoners arrived in a very bad condition.

Q Please describe the conditions the prisoners were in when they arrived?

A They couldn't walk very well after these people had been on a transport so long. You could see they weren't well and couldn't walk well.

Do you know anything about a forest detail?

A Yes, they were small work details that cut wood in the forest.

Q Did Geisberger have anything to do with these forest commandos?

A Yes, when they came back from their work, Geisberger was there. They were always counted off when they came back to the camp.

Q Did anything unusual happen on these occasions?

A No. I only knew that on occasions people would bring wood back from the forest, and that was forbidden. Geisberger would wink and do nothing about it.

Q Why did these people bring wood back?

A To heat the barracks.

DOCTOR KNOBLOCH: No more questions.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Did you ever see an SS man beat a prisoner in Flossenburg?

A No.

Q You have seen quite a bit of duty as a concentration camp worker, have you not?

(Jecot-cross)

A I was in the guard company.

Q Were you in a guard company in Lublin?

A Yes.

Q How long were you in Lublin?

A 1942 to 1944.

Q In fact, all your duty has been in concentration camps, has it not?

A Yes.

DOCTOR SIMMERN: I object to that question. It goes beyond the limits of cross examination.

PROSECUTION: I merely wish to show the background of the witness, may it please the court.

PRESIDENT: The objection is overruled. However, make it concise.

QUESTIONS BY THE PROSECUTION:

Q Did you ever see the new arrivals who came into the camp mistreated?

A No.

Q Did you ever see a prisoner mistreated in Flossenburg?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

DOCTOR SIMMERN: No questions, thank you.

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL MUNCHAM:

Q What does the term "mistreated" mean to you?

A When a prisoner is beaten, or whatever you understand by mistreatment.

Q Would you call a slap on the ear mistreatment?

A Yes.

Q You never saw that?

A No.

MR. MC KAY: If it please the court, one of the accused who is represented by Doctor Wacker has requested me to ask some questions. I should like to have an opportunity to talk to him.

PRESIDENT: Just one moment. Are there any further questions by members of the court? Apparently not. Would you like a short recess, Mr. McKay?

MR. MC KAY: Yes, sir.

PRESIDENT: The court will recess for fifteen minutes.

(Thereupon the court recessed in place and reconvened at 1445 hours.)

PRESIDENT: The court will come to order.

MR. MC KAY: May it please the court, this witness has given certain testimony which affects the interest of the accused No. 3, Berger. I respectfully request the court the opportunity to ask questions to clear up a matter, as a representative of the chief defense counsel. I am doing this in the absence of Doctor Wacker.

PRESIDENT: Proceed.

REDIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Mr. Joost, you stated on direct examination that you were a technical sergeant of the guard detail, is that correct?

A Yes.

Q Just what duties did you yourself perform at Flossenburg?

A I was with the guard unit there as officer of the day and as officer of the guard.

As non-commissioned officer of the guard battalion, were you ever permitted to go into the prison compound enclosure itself?

A No. You weren't allowed to go into the camp.

MR. MC KAY: That is all, sir.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q As officer of the day, were you required to inspect the guard?

A Yes.

Q When guards were on duty inside the enclosure, you inspected the guards, did you not?

A Inside the wire enclosure, no.

Q Do you mean there were no work details inside the enclosure?

A The officer of the day wasn't allowed to go inside the camp itself, around the camp.

PROSECUTION: I didn't ask you that. Just answer my question, please.

THE WITNESS: I don't understand that.

PROSECUTION: Will you read the question, please?

(Thereupon the reporter read the question.)

THE WITNESS: Inside the wire enclosure? Well, we didn't have anything to do with that.

PROSECUTION: Answer my question, please.

MR. MC KAY: I think this witness has answered this question to the best of his ability with regard to himself. That is all he knows.

PRESIDENT: The objection is overruled. I think the prosecutor should clarify his question.

PROSECUTION: Will you read the question previous to the one just asked, please?

(Joint-recess)

(hereupon the reporter read the question, as follows:)

"Q When guards were on duty inside the enclosure, you inspected the guards, did you not?")

PRESIDENT: Will you read the answer to that question and the next question and answer?

(hereupon the reporter read the following:

"A Inside the wire enclosure, no.

"Q Do you mean there were no work details inside the enclosure?

"A The officer of the day wasn't allowed to go inside the camp itself, around the camp.")

PRESIDENT: The court still feels you should clarify your question, Mr. Prosecutor.

QUESTIONS BY THE PROSECUTION:

Q Were guards assigned to watch the work details?

A Yes, the work details which were outside the camp and in the chain of guards. There weren't any guards there.

Q Well, were there any work details inside the camp that were watched by guards?

A No. Within the chain of guards the work details were without guards.

Q Were all the orders that pertain to the conduct of the guard battalion carried out at Flossenburg?

A Yes, as long as I was there they were carried out.

Q You never saw a member of the guard inside the wire enclosure at Flossenburg?

A No, they weren't in there.

Q Where were the executions carried out?

A That is more than I knew.

(Jocat-recross)

Q Isn't it a fact that executions were carried out at the roll call square?

A I don't know.

Q There were no executions carried out at Flossenburg while you were there?

A I don't know.

Q Did you ever hear about any being carried out while you were there?

A I don't know.

Q You mean you do not know whether you heard of any?

A No.

Q Is your memory all right today?

A Yes.

Q As an officer of the guard, did you inspect the guard?

MR. MC KAY: That question is objected to as repetitious.

PRESIDENT: The objection is sustained.

PROSECUTION: May it please the court, the other question was with respect to officer of the day. He stated he was officer of the day and officer of the guard. The first question was regarding officer of the day, and this regards officer of the guard. I am asking two different questions.

PRESIDENT: Under the circumstances stated, the objection is overruled.

PROSECUTION: Will the reporter read the last question?

(Whereupon the reporter read the question.)

THE WITNESS: Yes.

QUESTIONS BY THE PROSECUTION:

Q Where were the guards located that you inspected as officer of the guard?

A During the day time the chain of guards was there and in the evening after the prisoners came back from work there were the guards in the towers.

Were the guards that you inspected only the guards that were in the towers?

A Yes.

Q You never had occasion to check the guards who surrounded the details working on the outside of the camp?

A As officer of the day I never examined or checked a commando working outside the camp.

Q As officer of the guard did you ever do so?

A As officer of the guard neither.

Q Was it the duty of the officer of the day or the officer of the guard to inspect the guards who watched the prisoners working outside details?

A No.

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL SKIRVING:

Q You say you have never seen any beatings in Flossenburg?

A No.

Q Did you ever see any official punishment administered by the SS while in Flossenburg?

A No, that is not known to me.

Q Did you ever hear of any?

A No.

Q Did you ever hear of the horse, or "twenty-five"?

A No.

(Joost-court)

Q How were people punished in Flossenburg?

A I don't know.

Q You were there from September to March, is that correct?

A Yes, from September. During that time I was sick for one month in the hospital, in January.

Q Approximately five months you were in Flossenburg, is that correct?

A Yes.

Q You never saw any beatings or punishment. All the prisoners were good, is that correct?

A I didn't see any kind of beatings.

QUESTIONS BY THE PRESIDENT:

Q You mean to say that during that entire period, from September, 1944, to March, 1945, you never even heard of a single execution?

A No.

Q You are sure about that, now?

A Yes.

Q During that same period you never saw any mistreatment in Flossenburg or heard of any mistreatment?

A No.

Q You were a technical sergeant during that period, were you not?

A Yes.

Q Where did you go when you left Flossenburg in March, 1945?

A To Arsberg.

Q What duty did you perform there?

A I was sent there with twenty-five guards in order to take

(Insert-court)

over a detail which was supposed to go from Berlin, but the detail didn't go.

QUESTIONS BY LIEUTENANT COLONEL SKULVIG:

Q Did you ever hear of a prisoner being cremated in Flossenburg?

A No.

Q As officer of the guard, or sergeant of the guard, didn't you ever go down to the crematory to inspect the SS guard post there?

A The crematory was there, but it was outside the chain of guards.

Q You never visited the crematory?

A No, I was never there.

Q Did you ever see smoke coming out of the crematory?

A Yes, we could see that when we went by.

PRESIDENT: Are there any further questions by the court? Apparently not. Redirect.

DOCTOR EINGHORN: No, thank you.

PRESIDENT: Recess.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Did you ever see bodies of prisoners piled outside the crematory?

A No.

PROSECUTION: That is all.

PRESIDENT: The court understands the defense has finished with this witness?

MR. MCKAY: That is right, sir.

PRESIDENT: The witness will be excused.

(Thereupon the witness was excused and left the court room.)

PRESIDENT: The court will recess for half an hour.

(Thereupon the court recessed at 1510 hours.)

(Thereupon court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Berkowitz and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense are present, with the exception of Lieutenant Colonel Wilson, Mr. Hall and Dr. Becker, who are absent on business of the accused; all the accused are present, with the exception of Oswalt, Losch and Lipinski, who are sick, and Dr. Schmitz, who is conferring with counsel.

The interests of those named accused who are absent are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Defense?

MR. McKAY: At this time the witness Paul Mueller is being recalled on behalf of the accused numbers 12 and 41. This witness has formerly testified for the defense.

PAUL MUELLER, recalled as a witness by the defense, having previously been duly sworn, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: Mr. Mueller, you are cautioned that you are still under oath.

THE WITNESS: Yes.

PRESIDENT: Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, doctor.

DR. ENGELHORN: I am examining this witness on behalf of Geisberger and Becker, Friedrich.

REDIRECT EXAMINATION

QUESTIONS BY DR. KNOELHOFER:

Q Mr. Mueller, what is your full name?

A Paul Mueller.

Q What is your age?

A 40 years.

Q Are you married?

A Yes.

Q What is your usual residence?

A In Kramhach near Aichen.

Q Where are you at this time?

A In the special camp.

PRESIDENT: The court again advises you that if you should be asked any question that might tend to incriminate you, that you have the right to ask the court to refrain from answering that particular question.

THE WITNESS: Yes.

QUESTIONS BY DR. KNOELHOFER:

Q Are you in Dachau?

A Yes.

Q Mr. Mueller, have you been in camp Flossenburg at some time?

A Yes.

Q In what capacity were you there?

A On the 20th of January, 1941 I was again inducted in Flossenburg and I served as a guard with the second company until the first or second day of November, 1942. I was then transferred to the administration, the billeting section. In the billeting section I was in charge of the laundry and the heating system. I was in charge of the heating system until November, 1944.

Q During your stay in Flossenburg did you meet a man named Geisberger?

A Yes.

Q Look and see whether Geisberger is among the accused here and point to him if you see him.

A The first one in the second row, number 12.

DR. MAGELHOWN: Let the record indicate that the witness has recognized the defendant number 12 as being Geisberger.

QUESTIONS BY DR. MAGELHOWN:

Q When did you meet Geisberger?

A That was in the middle of February, 1944.

Q What was the occasion for your meeting Geisberger?

A He was report leader and in his capacity as report leader he got into the laundry frequently.

Q What year did you meet Geisberger?

A '45.

Q What was Geisberger's job in the laundry?

A As report leader he had the authority to inspect the laundry.

Q What was he supposed to inspect?

A To see whether all the prisoners were at work and that nobody else would be in the laundry.

Q Did you have an opportunity to observe how Geisberger treated the prisoners?

A When Geisberger went through the laundry I went along several times and on those occasions I observed that Geisberger was conversing with the prisoners in a decent and calm tone of voice. Then Geisberger came up to me several times with a prisoner who had a bad shirt on or a bad sweater, and he asked me to please give this man another shirt or another sweater, and since I had a small reserve stock in the laundry I could comply with his wishes. Then Geisberger came to me several times when he was expecting transports and he asked me to please clear the laundry because he didn't know where

to put all these transports. Then I told the capo to clear the first room in the laundry so the prisoners could spend the first night till the next morning there.

Q What time of the year was it that these transports arrived?

A These transports kept coming in from February till the end.

PRESIDENT: Off the record.

(Discussion off the record.)

PRESIDENT: On the record. Doctor, the court desires that you clarify one particular matter here. The court understands that this witness has testified that he entered the laundry 2 November, 1942 and that he was on that detail until November, 1944. He has further testified to the effect that he met Geisberger in February, 1945. The court desires you to clarify that particular matter.

QUESTIONS BY DR. ENGELHORN:

Q From when until when were you in the laundry?

A I was in the laundry until the end. It was only the issuing of fuel that I did until November, '44.

Q When you say "until the end", what do you mean?

A Until April 20th, 1945.

Q You said a moment ago that you brought these incoming transports into the laundry. Is that right?

A Part of them were sent into the laundry.

Q Was there any heat in the laundry?

A Yes, the heating facilities were located just below it so that the ground was always warm, and on top of it you had heating in the laundry itself.

Q Where did those persons get sent to the next day?

A As far as I know, they were sent to a bath and then were distributed among the various blocks.

(Mueller-Redirect)

Q Can you say anything about the physical condition of the prisoners who arrived in the spring of '45?

A Part of them arrived in a very poor physical condition.

Q Can you describe that in some manner?

A Emaciated and with poor clothes. That is how they arrived.

Q Do you know where these prisoners came from?

A As far as I know, most of them came from the east, but I don't know where.

Q During your stay in camp did you also happen to meet a man named Friedrich Becker?

A Yes.

Q See whether he is present among the accused and if you see him, point to him.

A The second one in the first row, number 1 (indicating).

DR. ZWELBORN: Let the record indicate that the witness recognized the prisoner number 1 as being Friedrich Becker.

QUESTIONS BY DR. ZWELBORN:

Q What was Becker's position in camp?

A Towards the end he was labor distribution officer.

Q Did you ever have an opportunity to observe his activities?

A Yes.

Q What was the occasion for that?

A There was one electrician, a Pole, in Camp Flossenburg by the name of Kwiatusiki.

Q What about him?

A This man suddenly discovered his father who had arrived in camp with a transport from Warsaw some time in the fall of '44. Upon that, Kwiatusiki Junior went up to Becker and asked him to please give him easy work since his father was an old man. Upon that Becker came over to me and

asked me whether I didn't have any more light work in the laundry. Upon that I told Becker, "In that case you would have to take him as an additional hand in the laundry where he would have to fold up towels and rags in a dry state," and he actually kept working there until the 20th of April, 1945.

DR. ENGELMANN: No further questions.

PRESIDENT: Mr. O'Connor?

MR. O'CONNOR: If the court please, I wish to question the witness in behalf of number 41, Schreiber.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Mueller, when you were in Flossenburg did you know a man by the name of Schreiber?

A Yes.

Q When did you first know him?

A When I got there in '41 I met Schreiber, but I don't know anything about his work until '42.

Q Will you look in the dock and see if you can find him, and if you can identify him?

A The last one in the last row, number 41.

MR. O'CONNOR: The witness has correctly identified number 41 as Schreiber.

QUESTIONS BY MR. O'CONNOR:

Q Will you please describe to the court the nature of your association with Schreiber in Flossenburg?

A In 1942 Schreiber was sent to Neurohlau as detail leader.

Q Prior to that time did you have any association with Schreiber?

A Well, I just knew him, he was a good buddy, but I didn't have any official dealings with Schreiber.

(Mueller-Redirect)

asked me whether I didn't have any more light work in the laundry. Upon that I told Becker, "In that case you would have to take him as an additional hand in the laundry where he would have to fold up towels and rags in a dry state," and he actually kept working there until the 20th of April, 1945.

DR. ENGELHORN: No further questions.

PRESIDENT: Mr. O'Connor?

MR. O'CONNOR: If the court please, I wish to question the witness in behalf of number 41, Schreiber.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Mueller, when you were in Flossenburg did you know a man by the name of Schreiber?

A Yes.

Q When did you first know him?

A When I got there in '41 I met Schreiber, but I don't know anything about his work until '42.

Q Will you look in the dock and see if you can find him, and if you can identify him?

A The last one in the last row, number 41.

MR. O'CONNOR: The witness has correctly identified number 41 as Schreiber.

QUESTIONS BY MR. O'CONNOR:

Q Will you please describe to the court the nature of your association with Schreiber in Flossenburg?

A In 1942 Schreiber was sent to Neuerhlem as detail leader.

Q Prior to that time did you have any association with Schreiber?

A Well, I just knew him, he was a good buddy, but I didn't have any official dealings with Schreiber.

(Mueller-Redirect)

Q Did you see him often or seldom?

A I saw him rather often when I was pulling guard duty.

Q In November of 1942 what were his duties?

A In November, 1942, Schreiber was sent to Neurohlau as detail leader.

Q What is Neurohlau?

A That was an outside camp.

Q Of Flossenburg?

A Flossenburg was the main camp.

Q Was Neurohlau an out-camp of Flossenburg?

A Yes.

Q Do you know whether he ever returned to Flossenburg?

A In the middle of February, 1943, Schreiber came back to Flossenburg from Neurohlau.

Q What were his duties when he returned?

A He trained recruits then.

Q How long did he remain in recruit training duty?

A That must have taken until June or July, in summer.

Q Of what year?

A '43.

Q Where did the training of these recruits take place?

A Well, as far as I know, they were already moving out into the area when I went to work in the morning.

Q Where did they move to?

A I guess they must have moved in the woods.

Q What were your duties durinr this period when he was training recruits?

A I was in the billeting section.

(Mueller-Redirect)

Q Where was that located?

A Billeting section was in camp.

Q Did you ever see Schreiber when he was on that training detail?

A He frequently went to the billeting department.

Q Were you still in Flossenburg in April of 1944?

A Yes.

Q Do you know where Schreiber was stationed at that time?

A Schreiber must have got to Leitmeritz in April, 1944.

Q What is Leitmeritz?

A That is another outside detail of Flossenburg.

Q Do you know how long he remained away from Flossenburg on that occasion?

A He must have been in Leitmeritz from the middle of March until July and after that he must have been in Neuerhlau.

Q Did you see him in Flossenburg at any time during that period of time?

A That must have been at the time of the harvest; I saw him in Flossenburg then.

Q About when was that?

A Towards the end of June or else the beginning of July.

Q Of what year?

A '44.

Q During that period of time who was the roll call leader in Flossenburg?

A In '44 it must have been Kuebler.

Q Will you state to the court whether or not you know if it was Schreiber?

(Mueller-Redirect)

A I never saw Schreiber being roll call leader in Flossenburg.

MR. O'CONNOR: No further questions.

PRESIDENT: Cross examination.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q When was Schreiber block leader?

A I can't say at all what kind of work he did in '41.

Q I didn't ask you whether it was '41 or not. I asked you when was he a block leader?

A I don't know of him being a block leader at all.

Q You did not know him very well, did you?

A Until 1942 I seldom ever met him.

Q From '42 on, how well did you know him?

A In his capacity as a detail leader he always had communications with the billeting department, either by telephone or in writing, and since I listened to several telephone conversations I got to know Schreiber as a decent person.

Q Just a minute. Just answer my question, will you please?

A Yes.

Q Did you ever know Schreiber acting in the capacity as a block leader in Flossenburg?

A No.

Q Did work leaders ever compose execution details in Flossenburg?

A I don't know.

Q You were in Flossenburg for how long?

A I was in Flossenburg until the 20th of April, '45.

Q From what date?

(Mueller-Recross)

A From 20 January, 1941.

Q From January, 1942 up until the end of 1945 you never saw an execution detail?

A No.

Q Were any people ever executed in Flossenburg during that period of time?

A I don't know. In 1941 I heard of an execution detail once but that might have been before that too.

Q I am not talking about 1941. I am talking about 1942 and during the period of time from 1942 on, you never heard of an execution taking place in Flossenburg, is that correct?

A No.

Q The work in the laundry was relatively easy, was it not?

A Yes.

Q Prisoners would receive preferential treatment by being sent to the laundry, would they not?

A Into the laundry and there were other places too.

Q How many prisoners did your work in the laundry, on the average?

A 25 to 30, and sometimes a few more.

Q Of that number, how many were Germans?

A That might have been five, six, to seven.

Q And Geisberger would come by and talk to these Germans when he came into the laundry, did he not?

A No, he frequently talked to Russian prisoners.

Q You had Germans and Russian officers working in the laundry, is that correct?

A Not Germans, only Russian officers, and Hungarians.

Q Hungarian officers?

(Mueller-Hecross)

A Hungarians who were high ranking something-or-other from secret service, or officers. There were four of them.

Q So that the total persons employed in the laundry then consisted of people of the type you have described, is that not correct?

A I don't quite understand that question.

Q The prisoners that were used to work in the laundry were persons who were Russian officers, Hungarian officials, Germans, and persons who held relatively high positions in life, is that not correct?

A Yes.

Q Did you ever see Geisberger out on the roll call square?

A Well, I got in the camp only at seven o'clock in the morning and the prisoners had already moved out by then.

Q Will you please answer my questions?

A Yes.

Q Did you ever see Geisberger out on the roll call square?

A During the daytime, yes.

Q Were the prisoners there at the time you saw him there?

A No.

Q The only thing you know about Geisberger is the manner in which he treated those special prisoners that worked in the laundry, is that not correct?

A Yes.

Q It was Friedrich Becker's duty, was it not, to assign prisoners to various work details?

A I don't exactly know that.

Q Why was it that this Pole went to Becker to obtain an easy job for his father in the laundry?

A Because Becker was the labor distribution officer.

Q What did he have to do with respect to the assignment of prisoners

(Mueller-Fecross)

on work details?

A As far as I knew, he picked out the different occupations.

Q You mean he picked out the prisoners with different occupations and put them to work, is that correct?

A Yes.

Q So that he did assign the prisoners then to the various work details, is that not right?

A Yes.

Q That was true with respect to all the transports of prisoners that came into Flossenburg, was it not?

A The transports? I don't understand that question.

Q Well, transports of prisoners came into Flossenburg, did they not?

A Yes.

Q Becker assigned these prisoners that came in on transports on various work details, did he not?

A He selected the individual occupations and they were then sent out.

Q By that do you mean that he assigned these individuals to the various work details?

A Yes.

Q How many prisoners died in your laundry?

A Nobody died in the laundry.

PROSECUTION: No further questions.

PRESIDENT: Redirect, Dr. Engelhorn?

DR. ENGELHORN: No, sir.

PRESIDENT: Mr. O'Connor?

MR. O'CONNOR: Nothing, sir.

PRESIDENT: Questions by the court? Apparently none. The court understands the defense are finished with this witness? Dr. Engelhorn?

(Mueller-Recross)

DR. ENGELHORN: Yes.

PRESIDENT: Mr. O'Connor?

MR. O'CONNOR: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. McKAY: There has been a mistake in the first name of the next witness. His name should be "Hugo." He is being called on behalf of the accused number 41 represented by Mr. O'Connor.

PRESIDENT: The court will take a short recess.

(Whereupon at 1620 hours the court took a short recess.)

(Whereupon the court reconvened at 1625 hours.)

HUGO TRAEGER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q State your name, please.

A Traeger.

Q What is your first name?

A Hugo.

Q Are you at the present time being held in Camp Dachau by the American authorities?

A Yes.

PRESIDENT: The court advises you at the present time that if you should be asked any question that might tend to incriminate you that you have a right to ask the court to refrain from answering that particular question. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Mr. O'Connor.

(Traeger-Direct)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Traeger, were you ever in Flossenburg?

A Yes.

Q When?

A From 6 May, 1940 until the 17th of April, 1945.

Q While you were there did you ever know a man by the name of Schreiber?

A Yes.

Q Will you please look at the man in the dock and see if you can find him? If you can, will you point him out?

A Up there.

MR. O'CONNOR: The witness has correctly identified the accused Schreiber, number 41.

QUESTIONS BY MR. O'CONNOR:

Q When did you first know Schreiber?

A Well, I had known him ever since 1940, when I got to Flossenburg, but not too well.

Q Where were you in November of 1942?

A In November, 1942, ten men and Master Sergeant Schreiber were sent to Neurohlau.

Q Is that an out-camp of Flossenburg?

A This porcelain factory of Neurohlau was at that time instituted as a work detail.

Q Of Flossenburg?

A Of Flossenburg.

Q Do you remember the date in November that you and Schreiber were transferred to Neurohlau?

A Yes, on the 6th of November.

Q When did you arrive in Camp Neurohlau?

A We arrived in Neurohlau on the 7th.

Q What were Schreiber's duties during the time that he was in Neurohlau?

A He was a detail leader there.

Q Do you know when he left Neurohlau?

A That was in the middle of February.

Q Where did he go, if you know?

A He was sent back to Flossenburg.

Q In what year?

A 1943, February, '43.

Q How long did you stay in Neurohlau?

A In the first part of March I was reinducted according to the new standards for induction.

Q Where were you sent?

A Back to Flossenburg.

Q Was that 1943?

A 1943.

Q When you returned to Flossenburg in March, 1943, did you ever see Schreiber again?

A Yes.

Q When did you see him?

A That was during the first days; he was in charge of the training company of recruits then.

Q Approximately what date was that when you found out he was on that detail?

A That wasn't a detail. That was a training outfit. He was training troops and they were all German nationals from the Balkans.

Q Where did he train these troops?

A At the sports place.

(Traeger-Direct)

Q Where was that with respect to the camp enclosure?

A That is about one kilometer away from the camp, -- there is a castle, sort of a ruin there, and behind that ruin this square is located.

Q Do you know how long he remained on that duty?

A Three months.

Q Three months after you knew he was on it or three months altogether?

A Three months while I was there until the middle of June in other words.

Q What were your duties during that period of time?

A I was pulling guard.

Q Will you explain to the court what regulations or orders were in effect during that period of time regarding the entry of SS men into the enclosure who were not assigned to duty there?

A Well, there was an order making the prisoner compound off limits to anybody who did not have any business there and those who had business in there had a special pass anyway.

Q Did you ever see Schreiber in there from the time you returned to Flossenburg in 1943 until he was relieved of that duty of training recruits?

A Never in the camp.

MR. O'CONNOR: That is all, sir.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Where did Schreiber live at the time that he was engaged in this training?

A He was married and lived in town with his family, his father-in-law.

Q They were training individuals to act as guards in concentration camp there?

A Yes.

(Traeger- Direct)

Q How many prisoners were on this detail at Neuroblau?

A We only had forty there.

Q How many of them died?

A None.

Q When did you join the SS?

A SS? You mean Allgemeine SS or Waffen SS?

Q Allgemeine?

A February, 1943.

Q Waffen SS?

A Waffen SS? I was inducted on the 6th of May, when I was sent to Flossenburg at that time.

Q Was Flossenburg the first concentration camp where you had duty?

A During the war, yes.

PRESIDENT: Just a minute, — the 6th of May of what year?

THE WITNESS: I was inducted into Flossenburg on the 6th of May, 1940.

QUESTIONS BY PROSECUTION:

Q The only duty you performed there was pulling guard, is that correct?

A Pulling guard, and I also was a medic from a hospital.

Q When did you become a medic?

A In April, 1942.

PROSECUTION: No further questions, sir.

PRESIDENT: Redirect?

MR. DECONNOR: No redirect, sir.

PRESIDENT: Questions by the court? Apparently none. The court understands the defense is finished with this witness?

MR. DECONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: Court will adjourn until 0900 hours Monday morning.

(Whereupon at 1740 hours the court adjourned until 0900 hours Monday morning, 25 November, 1946.)

(Trepper-Cross)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: Erste Anklage:

Particulars: Einzelheiten:

Second Charge: Zweite Anklage:

Particulars: Einzelheiten:

The above charges are referred for trial to the *Summary / *Intermediate Military Court to be held / *General

Die Verhandlung wird vor dem *Einfachen / *Mittleren Militärgerichte / *Oberen

at / in (Address of Court) (Anschrift des Gerichtes) on / am 194

at / um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused
Abschrift dem Angeklagten zugestellt am 194

(Signature of person making service)
(Unterschrift des Zustellers)

Legal Form No. 8

MILITARY GOVERNMENT COURT

First Duplicate Copy

CASE RECORD.

Pages 7162 - 7242 Incl.

Case No. FLOSSENBURG

Prosecutor

~~*Summary~~
~~*Intermediate Military Court~~
*General

Defence Counsel

Place DACHAU, GERMANY

Interpreter

Date 25 November 194 6

Reporter

Members of Court:

WITNESSES:
RUDOLPH BAUCHSPIESS, KARL HENSEL, HANS MONSKA, MAX FEICHTMAYER, MARTIN DORN, HANS MORBACH, JOHANN FILEP, ANTON PETER, WOLFGANG HERZIG.

Accused FRIEDRICH BECKER, ET AL

Address

Sex

Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

Versus

THE UNITED STATES — FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY — BEGINNING 12 JUNE 1946

25 November 1946 — 0900 - 1630 hours — Pages 7162 - 7242 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
RUDOLPH BAUCHSPIESS	7162	7165	7168	7169	7174
KARL HAENSEL	7177	7183	7185	7186	7187
HANS MONSKA			7190	7194	7194
MAX FEICHTMAYER	7195	7200			7206
MARTIN DORN	7208	7212			
HANS GERBACH	7212	7215			
JOHANN FILEP	7217	7219	7220	7221	7222
ANTON PETER	7225				7235
WOLFGANG HERZIG	7236	7240	7241	7241	

EXHIBITS

NONE"

CAMP DACHAU, GERMANY

25 November 1946.

(Whereupon the court, at 0900 hours, reconvened.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all personnel of the court are present, all the personnel of the prosecution with the exception of Mr. Pinter and Mr. Berkowitz, who are absent on business of the prosecution; all of the personnel of the defense are present, all of the accused, with the exception of Oswalt, Losch, Lipinski, Mussfeldt, Eisbusch, Wurst and Winkler, who are sick and whose interests are being taken care of by counsel, and the court reporter is present. If there are any spectators present in the court room who expect to be called as witnesses, they will plea e leave the court room.

PRESIDENT: Mr. O'Connor?

MR. HALL: If the court please, may the accused Matzke be released for consultation?

(Permission was granted by the Court.)

DEFENSE COUNSEL (Mr. O'Connor) At this time the defense calls Rudolf Buachspiess in behalf of Accused Schreiner, No. 41.

RUDOLF BAUCHSPIESS, a witness on behalf of the defense, was sworn and testified through an interpreter as follows:

DIRECT EXAMIN TION

QUESTIONS BY MR. O'CONNOR

Q Will you state your full name?

A Rudolf Bauchspiess.

Q Mr. Bauchspiess, where do you live at the present time?

A At the present time I am living at Floss.

Q Where are you residing at the present moment?

A In a special camp.

Q You are being held by the American authorities?

A Yes.

PRESIDENT: You are advised that any time you should be asked any questions which might tend to incriminate you, that you have a right to ask the court to refrain from answering that particular question. Do you fully understand?

A Yes.

PRESIDENT: Proceed, Mr. O'Connor.

QUESTIONS BY MR. O'CONNOR

Q Mr. Bauchspiess, were you ever in Flossenburg?

A Yes.

Q When did you enter Flossenburg?

A First of September 1938.

Q Were you a member of the SS?

A Yes.

Q What was your rank?

A My last rank was first sergeant.

Q When you were in Flossenburg did you know a man by the name of Schreiber?

A Yes.

Q When did you first know him?

A He came to Flossenburg just before the outbreak of the war.

Q Will you fix the date?

A I can't remember the date. Must have been August.

Q Of what year?

A 1939.

Q Did you know Mr. Schreiber on January first, 1942?

A I wasn't there any more. Oh, yes, I was; I did know Schreiber.

Q When did you leave Flossenburg?

A Fifth of November, 1942.

Q Were you in Flossenburg on January 1, 1942?

A Yes.

Q Do you know what Schreiber's duties were at that time?

A Leader of work commitment office.

Q Do you know where he was in January or February 1942?

A I don't know where he was then.

Q Well, do you know where he was at any time during 1942?

A Beginning of 1942 he became sick.

Q What happened then?

A Then he was sent to a hospital but that was already earlier. He went away earlier.

Q When did he go?

A As far as I remember, August 1941.

Q When did he return?

A I didn't see him again until the spring of 1942.

Q And about what time in 1942? About what month?

A Must have been April..

Q What duties were assigned to him, if you know, when he returned?

A When he came back he still used a stick to help him walk. He was rather handicapped in walking.

Q Was he assigned any duties in the SS?

A Yes, I believe that he took over his old job as work commitment official, but only internal matters, things concerned with work in the clerk's office.

Q Where did he conduct his work?

A In the clerk's office of Department 3.

Q And how long did he stay on that assignment?

A I can't tell you exactly. I know that he had another attack and he had to go to the SS Hospital and stay there.

Q When was that?

A I can't remember the exact time any more; must have been the month of May.

Q What year?

A 1942.

Q Do you know how long he was sick at that time?

A I don't know the exact time any more.

Q What hospital did he go to?

A The SS Hospital.

Q In Flossenburg?

A Yes.

Q Do you know when he returned to his duties?

A Probably in June.

Q What year?

A 1942.

PROSECUTION: No further questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION

Q Schreiber was leader of the work commitment office from January 1942 up until what date?

A The first period of time he was not present, he was in the hospital.

Q. Where is the hospital located?

A The SS Hospital. It was the second barracks to the right.

Q How do you know whether or not Schreiber was confined to that hospital the entire time?

A The beginning of 1942 he was was in a hospital outside the garrison.

Q Where was that hospital located?

A In 1941 he was delivered to the hospital in Weiden.

Q How do you know that?

A I and a comrade of mine, Sanger, went and visited him in his house just before he went off to the hospital.

Q And you were stationed at the concentration camp at Flossenburg at that time, were you not?

A Yes.

Q And you knew a man there by the name of Pawliczek, did you not?

A Pawliczek? Yes.

Q When did he go to the hospital?

MR. WACKER: I object to the question; it is going beyond the extent of the direct examination.

PROSECUTION: May it please the court, I have a right to examine this man's powers of recollection concerning events in order to determine whether or not he is telling the truth.

PRESIDENT: Mr. Prosecutor, in this particular case Pawliczek happens to be one of the accused.

PROSECUTION: Absolutely, sir, and that is the reason why it is even more germane than it would be if I asked him who went to the hospital the day before Schreiber did. You can give him the name of the man who went the day before Schreiber, the man who went the day after Schreiber. I have a perfect right to ask these questions to test his recollection.

PRESIDENT: The court wants to find out whether or not you are planning on going into the case of Pawliczek?

PROSECUTION: No, sir, no further than to go into the question of this man's veracity and his power to remember.

PRESIDENT: Court will be closed.

(Whereupon the court was closed from 0923 to 0925.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel who were present before the court closed are present now, with the exception of Col. Wilson and Mr. Hall, who are absent on business of the accused. Mr. Berkowitz is present. The accused Wedak has withdrawn for conference with counsel and his interests are being taken care of by counsel.

MR. O'CONNOR: May it please the court, I am going to make a request. May I ask this witness to identify Schreiber if

(Bauchspiess - cross)

he can find him.

PRESIDENT: There is an objection before the court. The objection of Dr. Wacker is sustained. The court feels, Mr. Prosecuter, that particular question is vital to the main issue of the accused Pawlicsek. Any further cross examination.

(A conference was had between the Prosecution, Mr. O'Connor and the court.)

MR. McKAY: Let the record show that the accused Maurer is leaving the dock with permission of the court.

Questions by Prosecution (continued)

Q Would you recognize Schreiber if you were to see him?

A Yes.

Q Point him out.

A Bottom row, No. 41.

Q Let the record show, may it please the court, that the witness identified the accused wearing No. 41 as Schreiber.

MR. O'CONNOR: May it please the court, I would like to have the accused given permission to change his seat from the back to the front row, which he already has done.

PRESIDENT: Granted.

Q What detail were you working on in 1943?

A The clothing room.

Q Were you the work detail leader in the clothing room?

A Yes, I had the duty in the clothing room. That was the official title for the position.

Q Who was your immediate superior?

A Captain of the SS Brennais.

Q How many men went to the hospital the same time Schreiber went?

A I believe that he was sent over special to the hospital in Weiden.

(Bauchspiess- cross)

Q How many went to the hospital in Weiden the same time Schreiber went?

A I don't know.

Q Do you know the name of anybody else who went to the hospital from Flossenburg about that time?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. O'Connor)

Q Mr. Bauchspiess, do you know anybody else in Flossenburg that got sick at the same time?

A I don't know that any other case was sent to the hospital around the same time there.

Q You stated that you were in Flossenburg early in 1942? Is that correct?

A I am supposed to be in Flossenburg in 1942?

Q Yes.

A Yes.

Q Will you please explain to the court anything you know about Schreiber's activities during that period of time with respect to being on the execution detail?

A I don't know whether he took part in that or not. There was an execution detail which existed.

Q At what time.

A About 1941.

Q I am speaking now of 1942?

A I don't know anything about 1942.

Q Do you know of any executions taking place in 1942?

A I don't know of any.

Q And did executions take place that you heard of?

A Not in 1942.

Q How do you know that?

A It was well known that in 1941 there was an execution squad in existence.

Q Mr. Bauchspiess, I am speaking about 1942; how do you know there were no executions in 1942?

A I only knew that they went up to the end of 1941 and 1942 I didn't hear anything more.

MR. O'CONNOR: That is all.

PRESIDENT: The court desires to caution the witness that events prior to January 1, 1942, are not directly connected with the main issue. By that the court means, avoid reference to events previous to January 1, 1942.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Who was it that was supposed to be executed by this execution detail?

DEFENSE COUNSEL (Mr. O'Connor) I object to the question unless he puts the time on that.

PROSECUTION: May it please the court, I would like to be heard on that.

PRESIDENT: All right; proceed.

PROSECUTION: He has already gone into that matter and right before this court, that executions took place, he says, in 1941. Now I have a perfect right to go into that matter which he has brought out by his direct examination and I think it would be manifestly unfair for him to leave the impression before this court about executions taking place in 1941 and not permit the Prosecution to have an opportunity to cross examine and ascertain whether they were 1941 or 1942.

PRESIDENT: The court will not interfere with your cross examination as far as actually determining whether the executions

took place in 1941 or 1942, but the court does not desire to go into this matter of 1941, due to the fact that it is prior to the intidated date as indicated on the Particular of the Charge.

PROSECUTION: May it please the court, there are other ways of ascertaining whether it took place in 1941 or 1942, other than asking the witness the date. In other words, this is a hostile witness, so far as I am concerned, and if I want to ask him a date I am satisfied that I would probably get an answer that would be unfavorable, but there are other ways of getting an answer, other than asking the date.

PRESIDENT: The objection of the defense counsel, Mr. O'Connor, is sustained. At the same time you can vary your question, or change your question, as you see fit, Mr. Prosecuter.

Q Who composed this execution detail that you were talking about?

A It was under the direction of Captain of the SS Aumeier.

Q And it operated the whole time Aumeier was there, did it not?

A As far as I remember only up until the time just before the winter set in, 1941-1942.

Q And who were the individuals that composed this detail?

PRESIDENT: Just a minute. According to the testimony of the witness, this event was prior to the start of the winter of 1941-42. Mr. Prosecutor, he is getting into 1941; that is prior to the indicated date of the Particular of the Charge.

PROSECUTION: Sir, as I tried to point out just a moment ago, there are more ways of getting in the date, of course. This man has been put on the stand by the Defense and I am satisfied that they know what date the Charge begins on and I am satisfied this witness knows what date the charge begins on, but there are more ways of finding out about the operation of this detail than asking him the specific date. There has been no evidence

(Bauchspiess - recress)

brought before this court as to when this execution is alleged to have taken place. These executions. And there are other events which fix the date other than just what the witness has to say about it.

PRESIDENT: Court will be closed.

(Whereupon the court, at 0945 hours, was closed.)

(The Law Member, at 1000 hours, returned and announced that the court would recess until 1030 hours.)

(Whereupon the court, at 1000 hours, recessed.)

11/ 5/46
Floss 627
RAD 1.

(Whereupon at 1035 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Col. Wilson and Mr. Hall who are absent on business of the accused; all of the accused are present with the exception of Oswalt, Losch, Lipinski, Russfeldt, Eisbusch, Furst, Winkler and Maurer. Those named accused who are absent are ill and their interests are being taken care of by counsel.

The witness is reminded that he is still under oath.

RUDOLF BAUCHSPIESS, called as a witness for the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

PROSECUTION: If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

Let the record further show that Dr. Schmitz is also absent, conferring with counsel, and his interests are being taken care of by counsel.

PRESIDENT: Continuation of recross-examination. Col. Denson.

RECROSS EXAMINATION (continued)

QUESTIONS BY THE PROSECUTION:

Q Bauchspiess, who were the individuals that composed this execution detail that you were talking about?

A I never had any good insight into that.

Q They were under the command of Capt. Aumeier, were they not?

A Yes.

Q And approximately how many men composed it?

A I don't know that, either.

11/25/46
Floss 627
RAD 2.

Q And what department of the camp was it from which they were taken?

A I believe out of the entire staff.

Q And you can't tell the court the name of any man that was on that detail, except Aumeier?

A As far as I know the top-sergeant of the SS, Schreiber, was probably there a few times.

Q This detail got rum, did it not, for the execution?

A I don't know anything about that.

Q Were there executions after Aumeier left?

A No.

Q In other words, they continued up until the time that he left, is that correct?

A I only know that they went up to the beginning of the winter '41-'42.

Q When did Aumeier leave?

A It must have been the beginning of the year '42.

Q How do you know that?

A That was general knowledge.

Q Based on what?

A Because another one came then, Capt. Fritsch.

Q How do you know that these executions ended during the winter of '41---the beginning of the winter '41?

A I didn't hear anything more about them.

Q Was it a matter of common knowledge among the personnel of the camp that executions were taking place?

A I believe so, yes.

Q And where did they take place?

A I believe in the camp, on the inside of the camp.

(Bauchspiess, recross)

11/25/46
Floss 627
RAD 3.

Q Whereabouts on the inside of the camp?

A I don't know that; I never was there.

Didn't these executions also take place under Fritsch?

A I don't know anything about that.

Q You mean, when you say you don't know anything about that, you never heard about it; is that correct?

A No, I didn't hear anything about it.

Q Did you ever see these execution details march out to do their work?

A No.

Q As a matter of fact, you don't know very much about these execution details, do you?

A That's right, I don't know much.

Q No further questions.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT.

QUESTIONS BY THE PRESIDENT:

Q How long were you in Flossenburg?

A From the 1st of September, 1938, until the 5th of November, 1942.

Q Just when did Schreiber return to Flossenburg after being in the hospital?

A It was in the Spring of '42, April.

Q In April?

A April.

Q April of '42?

A '42.

Q Can you tell the court just when Schreiber went to the hospital?

A In August, 1941.

(Bauchspiess, court)

11/25/46
Floss 627
RAD 4.

Q Then between the dates of August, 1941 and April, 1942 was Schreiber on duty at Flossenburg at any time during that period?

A No.

Q Are you sure about that?

A Yes.

Q During the time that Schreiber was on duty at Flossenburg did you see him frequently?

A Yes.

Q Now you have testified that Schreiber was present at these executions a few times. What executions are you referring to?

A The ones that took place in '41.

Q Are you sure about that date of 1941?

A Yes.

Q Could it have been the first part of 1942?

A In '42 none took place.

Q What about in January, 1942? Are you sure about that, that no executions took place?

A I never heard anything then.

Q Have you any idea definitely as to just when this man Aumeier left Flossenburg?

A It must have been at the beginning of the year of 1942.

Q What do you mean by the beginning,-February, March, or what?

A January; probably the first days in January.

Q Do you mean by that sometime between the 1st and the 10th, or when?

A I can't tell you exactly.

Q You can't tell the court the definite date when Aumeier left Flossenburg in '42?

A No.

11/25/46
Floss 627
RAD 5.

PRESIDENT: Any further questions by any members of the court? Apparently not. Redirect?

MR. O'CONNOR: One question, sir.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Bauchspiess, can you give the court any reason why you might particularly remember the illness of Schreiber?

A In the year 1941 Schreiber married and shortly after that he became ill and it was common knowledge among all the comrades in the camp.

Q About how long after he was married?

A It was during the two weeks following his marriage, and the general talk went that he was suffering from manly weakness which often enters the picture after a man gets married.

Q Were you at the wedding?

A No.

Q That's all.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Any further questions by any member of the court? Col. Burcham?

LT. COL. BURCHAM: No, sir.

PRESIDENT: Apparently not. The court understands that the defense is finished with this witness?

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the court room)

MR. O'CONNOR: The next witness to be called by the defense

is Karl Haensel who will testify in behalf of Schreiber, #41.

MR. McKAY: Let the record show that the accused Mussfeldt, Wurst and Eisbusch have returned to the court room. Dr. Wacker has requested an opportunity to interview the accused Berger during the next session.

PRESIDENT: That permission will be granted. The court understands that this witness is being recalled, Mr. O'Connor?

MR. O'CONNOR: Yes, sir.

PRESIDENT: (to witness) You are cautioned that you are still under oath.

KARL HAENSEL, recalled as a witness by the defense and being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q What is your name, please?

A Karl Haensel.

Q When did you first enter Flossenburg?

A The 1st of September, 1938.

Q Were you a member of the SS?

A Yes.

Q How long did you stay there?

A Until the 1st of February, 1945.

Q When you were there did you know a man by the name of Schreiber?

A Yes.

Q Will you look at the man in the dock and see if you can point him out.

A Here, down below, in the first row (indicating).

Q Let the record show that the witness identified Schreiber, #41.

PRESIDENT: The court again wishes to advise you that if you should be asked any question which might tend to incriminate you, you have a right to ask the court to refrain from answering

that particular question. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Maenzel, how long have you known Schreiber?

A I knew Schreiber, the top-sergeant of the SS Schreiber, a long time before and I learned to know him again in Flossenburg in 1939.

Q Were you both together in Flossenburg in January 1, 1942?

A I was there. Schreiber was not there; he was sick.

Q Where was he?

A Schreiber was sick.

Q Where was he?

A He was lying in the hospital on two occasions and once at home.

Q When did he first become ill?

A He got sick in August, '41.

Q When did he return to Flossenburg?

A April, 1942.

Q When he returned to Flossenburg what duties were assigned to him?

A He was work commitment leader.

Q Where did he perform his duties?

A Inside and outside the camp.

Q Can you give the court any idea how often you saw Schreiber after his return from the hospital?

A Many days I would see him once and many days I would see him twice a day and many days not at all.

Q Just what comprised his duties as labor service leader?

A As far as I know his duties consisted of putting together

the work details that worked inside the camp.

Q Is that all?

A And had to check them.

Q Will you explain to the court what, if anything, Schreiber had to do with taking the roll call?

A He had to formulate the various work details after the work details had been held according to strength and numbers.

Q Was he a rapport leader or roll call leader?

A No, I never saw that.

Q How long did he keep his job as labor service leader?

A Until he was transferred to the outside camp.

Q What camp was that?

A He went to Neu Rolau at that time.

Q What date did he go to that camp?

A Beginning of November, '42.

Q Is that an outcamp of Flossenburg?

A That was an outside camp of Flossenburg.

Q How long did he remain in Neu Rolau?

A He must have come back around the beginning of February, 1943.

Q What did he do in Flossenburg at that time?

A At that time there was a recruit company formed in Flossenburg and he was leader of the recruit company.

Q Where did he train these recruits?

A Inside the terrain in Flossenburg.

Q How far from the wire enclosure?

A The sport place was at least one kilometer away.

Q Was that the only duty he had during that period of time?

A Yes.

Q How long did he remain on that assignment?

A In June the company was activated.

11/25/46
Pless 627
RAD 9.

Q June of that year?

A '43.

Q During the time he was training recruits where were you working?

A In the troop kitchen.

Q Inside the enclosure or outside the enclosure?

A Outside the enclosure.

Q Did you see Schreiber seldom or often during that period of time?

A I saw him almost every day.

Q Did you ever see him inside the wire enclosure?

A Outside the wire enclosure in the mess hall of the troops.

(Haensel-direct)

DIRECT EXAMINATION (Continued.)

Q After June 15, 1943, what was Schreiber's assignment?

A Then he went away again. He went out to an outcamp again.

Q Which outcamp?

A He went to Buerenberg.

Q Do you know how long he stayed in Buerenberg?

A Until the spring of 1944.

Q Approximately what month?

A The end of March or the beginning of April.

Q During that time did you ever see him in Flossenburg?

A No, I never saw him.

Q If he had been back, would you have been likely to see him?

A I would have seen him.

Q When he returned from Buerenberg in March of 1944, what assignment was given him in Flossenburg?

A Then he went away again, immediately.

Q Where did he go?

A To Leitmeritz.

Q Is that an outcamp of Flossenburg?

A It is also an outcamp of Flossenburg.

Q How long did he stay in Leitmeritz?

A Until around June.

Q Of what year.

A 1944.

Q Did he return to Flossenburg at that time?

A I never saw him.

Q Did you ever see Schreiber again after June or July, 1944?

A Yes. He was on leave and then he went away again.

Q Didn't you just tell me that you didn't see him at Flossenburg again?

(Haensel-direct)

A After he came back from Leitmeritz, yes.

Q When did he return from Leitmeritz?

A June or July.

Q Tell the court what happened to him then, if you know.

A He came back from there. Then he had to leave. Then he went away again.

Q Where did he go again?

A To Zwodau.

Q Is that an outcamp of Flossenburg?

A That was also an outcamp of Flossenburg.

Q What month and what year did he go to Zwodau?

A It must have been the middle of July. In June or July he came back from Leitmeritz and had 14 days leave and went away again. It must have been the middle of July.

Q Is that the occasion upon which he went to Zwodau?

A Yes.

Q How long did he stay there?

A I met him again on the front then.

Q When?

A Middle of February, 1945.

Q Did you know whether or not he returned to Flossenburg after he went to the outcamp Zwodau?

A No.

Q Will you please explain to the court what you knew about executions in Flossenburg in the first months of 1942.

A I don't know anything at all about executions in the year 1942.

Q Were there any in Flossenburg?

A I know that in 1941 people were shot to death according to law in Flossenburg.

(Haensel-direct)

Q I am talking about 1942. Were there any executions in the first few months?

A I don't know of any. If any had taken place I surely would have known about it, but I can't think of any.

Q Mr. Haensel, you have stated that you saw Schreiber almost daily when he was in Flossenburg at the same time that you were. Do you know what his reputation was among the prisoners?

A He didn't have a bad reputation.

Q What do you mean by that?

A I know that because of a contact which I constantly had with prisoners. There were people working in my kitchen, and one of them came to me and asked me whether I couldn't have him transferred to Schreiber's house, and schreiber allowed him to write.

Q Write what?

A A letter. A special letter which he wanted to write which ordinarily wasn't allowed. How he did that I don't know but at any rate prisoners weren't usually allowed to write such letters.

Q Did you ever see Schreiber beat or in any way mistreat any prisoners?

A No, never saw it.

Q Did you ever hear of it?

A Not that either.

Q Can you tell the court whether Schreiber was ever a member of an execution squad after January first, 1942?

A No, I don't know.

MR. O'CONNOR: That is all sir.

PRESIDENT: Cross examination, Mr. Denson.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Did you visit Schreiber when he was in the hospital?

A Not in the hospital, no, but in his house.

Q What hospital was he in?

A He was in two various hospitals. Once in the hospital in Weiden and once in the hospital in Badschlemma, or whatever the name is.

Q Was he ever in the hospital at Flossenburg?

A Yes, he was also in the hospital in Flossenburg.

Q During what period of time?

A It was in the very beginning, a few days in August. Then later on a few days in January and then after he came back he was under doctor's treatment in this hospital.

Q What was the detail that Schreiber had at the time this prisoner came to you and asked for transfer?

A This work detail worked with me in the kitchen--worked with me in the troop kitchen, and the prisoner came to me and asked me to ask Schreiber whether he could write.

Q You mean, then, that no prisoner that worked for you ever came to you and asked to be transferred to Schreiber's detail, is that correct?

A No. No, that was somebody in my work detail who wanted to have permission to write.

Q Who was in command of these execution details?

MR. O'CONNOR: The question is objected to unless he places the time in the question.

PRESIDENT: Objection is overruled.

WITNESS: Captain Aumeier.

QUESTIONS BY THE PROSECUTION:

Q How long did Aumeier remain at Flossenburg?

A I saw him for the last time just before the Christmas season in 1941. He must have left during the first days of the year 1942.

Q He was there in 1942, is that correct?

(Haensel-cross)

A I don't know that. During the Christmas season I didn't see him anymore. I didn't see Aumeier anymore in 1941.

Q Did you see Aumeier on the execution detail?

A I was down there in the prisoner's kitchen at that time and I often saw Aumeier going out the gate, but I don't know the activities that he was in there.

Q You stated that you would have known about it if these executions had taken place, did you not?

A Definitely. I would have found out about it. That couldn't be kept secret because everybody would find out about it, there was such a big noise about it.

Q How frequently did these executions take place?

A I don't know that either.

Q You certainly would have known about it, would you not. You would have known about such a big affair that everybody else knew about, would you not?

A Yes, but the companies also had target practice down at the shooting ranges and they would make a lot of noise, too, at those occasions.

Q Do you mean that the only basis that you have for stating whether or not executions took place is the noise that you heard?

A Yes. Yes, you would hear that when somebody was shot.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q When executions took place, Mr. Haensel, wasn't there a lot of talk about it among the SS men around the place?

PROSECUTION: I object. The counsel is leading the witness.

PRESIDENT: Objection is sustained.

QUESTIONS BY MR. O'CONNOR:

Q What conversation did you ever have with SS men with respect to the executions?

A Up there in the mess hall there would be talk about it.

Q Did you ever have any such conversations after January 1, 1942?

A No.

MR. O'CONNOR: No further questions.

PRESIDENT: Recross examination.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Was there talk about the rum that they received?

A There wasn't any rum. I don't understand the question.

Q Do you mean that the participants of these execution details did not receive any rum for the executions that were performed?

A Well, I don't know anything about that.

Q Do you mean that there was no talk about it?

A No, I don't know anything about that.

Q Was there any talk about it?

A No, not that either. I don't know anything about that.

Q Did you talk to the people that participated in these details?

A No, I didn't do that either. I don't even know who took part.

Q Just whom did youtalk to about these executions?

A That was just general talk in the mess hall--that today somebody has been shot to death or two had been shot to death.

Q Who had been doing that talking?

A The men who were there. I don't know them anymore either. That was a big mess hall and a lot of people in it.

(Haensel-recross)

Q Did no one ever tell you who it was that participated in this execution?

A No.

Q You don't know who it was that was shot?

A No.

Q You don't know how many were shot?

A No, I don't know.

Q You don't know when they were shot?

A 1941.

Q Can you explain to the court why it is that the only thing you know about these executions is that they took place in 1941?

A I knew that in 1941 when Aumeier was there executions either took place or were supposed to take place.

Q They took place as long as Aumeier was there, did they not?

A Yes, so long as Aumeier was there.

PROSECUTION: No further questions.

PRESIDENT: Any questions by any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT COLONEL BURCHAM:

Q Just why do you remember the goings and comings of Schreiber so clearly?

A He was work commitment leader and in this capacity he had to check over the work details and on those occasions he often came in to see me in the kitchen. I had eight prisoners working in the kitchen for me and they took their orders from him actually.

Q Who was the interim work commitment leader?

A That was Schwann.

Q What happened to him?

(Haensel-court)

A He went to the front.

Q When?

A The beginning of October. The first days of October, 1942.

Q Was Schreiber work commitment leader all the time that he was in Flossenburg?

A Yes, except for those times when he was with the troops and was sick. He was sometimes and he also trained these troops.

Q How about from the time between when he came from Leitmeritz up to the time he left again?

A I didn't see him at the camp at all. At any rate I think in the time involved, there were only eight, ten or fourteen days, he was on leave at that time.

Q What was the date of that?

A That must have been the end of June or perhaps the middle of July.

Q What fixes that in your mind?

A Well at that time they were bringing in the hay. It was harvest time and the prisoners were out there mowing, and the troops, the SS troops which accompanied them would take food along because they had to stay out there with them the whole day long.

QUESTIONS BY THE PRESIDENT:

Q When did Captain Aumeier leave Flossenburg?

A The last time that I saw Captain Aumeier was just before Christmas, 1941 and I remember that Captain Aumeier left Flossenburg at the end of December or the beginning of January, 1942.

Q You don't know definitely?

A I came back from leave on the 6th of January and I didn't see Captain Aumeier anymore after that. I don't know whether he was on leave or not. At any rate I didn't see him anymore.

(Haensel-court)

PRESIDENT: Any further questions by the court?

QUESTIONS BY LT COLONEL SMYLY:

Q Were any prisoners beaten to death in 1942?

A I never heard anything about that.

Q If any had been beaten you would surely have heard about it, wouldn't you?

A You certainly would have found out about it. Either the guards would have talked about it or the prisoners who worked with me in the kitchen.

PRESIDENT: Any further questions by any member of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Haensel, was Schreiber Labor Service Leader or Labor Commitment Leader:

A Labor Service Leader.

PRESIDENT: The court understands that the defense is finished with this witness, is that correct?

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. O'CONNOR: The defense calls as its next witness, Hans Monska, who will testify for Schreiber, number 41. He has already been sworn.

MR. McKAY: Let the record show that the accused Berger has returned to the dock and Doctor Wacker has requested permission to take the accused Sommerfeld out for ~~comfort~~ CONFERENCE.

27

PRESIDENT: Approved doctor.

HANS MONSKA, recalled as a witness for the defense, having been previously duly sworn, testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Will you state your name please?

A Hans Monska.

Q You have previously testified in this case, have you not?

A Yes.

Q When did you first go to Flossenburg?

A January, 1942.

Q How long did you stay there?

A Until the end.

Q While you were in Flossenburg did you know a man by the name of Schreiber?

A Yes.

Q Will you look at the men in the dock and see if you can point him out?

A Here he sits--41.

MR. O'CONNOR: Let the record show that the witness identified the accused number 41 as Schreiber.

Q When did you first know Schreiber?

A I had already seen him earlier but I didn't learn to know him exactly until the year 1943.

Q At that time, what was his rank?

A Top sergeant, SS.

Q What was your rank?

A Sergeant of the SS.

Q Do you know what Schreiber's duties were when you first came to know him?

A Yes.

Q What were they?

A There was a training company there, a recruit training company, and Schreiber was platoon leader of this company and I myself was the top sergeant in the unit.

Q During what period of time did he train these recruits?

A I don't know the exact date. It was from the middle of January until the middle of June.

Q What year?

A 1943.

Q Did he have any duties other than the training of these recruits during that period of time?

A I don't know of anything else.

Q How often did you see Schreiber?

A Daily.

Q Where would you see him?

A He always came up to the clerk's office and then I'd see him when he showed off with soldiers.

Q Where did he take the soldiers?

A To the sport field.

Q Where was that located, with respect to the wire enclosure of the camp?

A Definitely one kilometer distance.

Q Approximately what period of time during the day did he spend at the sports field?

A Every day he would be there three or four hours in the forenoon and three or four hours in the afternoon. I didn't mean to say by that that he was always on the sports field. He would often make long forced marches around the terrain.

Q Did you go with this company when they went on their marches?

(Monska-redirect)

A I myself? No.

Q During this period of time that he was training these recruits will you please tell the court whether or not you ever saw Schreiber inside the wire enclosure?

A No.

Q What were the camp regulations in effect at the time with respect to people going into the wire enclosure who were not assigned there?

A Nobody had access to that space except for block leaders, etc.

Q Was Schreiber a block leader during that period of time?

A No, not during that period of time.

Q Do you know what Schreiber did when he finished his assignment training recruits?

A Do you mean during the day?

Q When he finished training the recruits in the middle of June, what was his next assignment in the camp?

A I don't know. I believe he went to an outside detail.

Q Do you know when that was?

A I don't know that.

Q Did you ever see him in Flossenburg again after he was transferred to an outcamp?

A It is possible that I might have seen him, but I don't remember it anymore.

Q Do you know what Schreiber's reputation was with the prisoners in the camp?

A I never heard anything bad about Schreiber.

Q Did you ever see him beat a prisoner?

A No.

(Monska-redirect)

Q Did you ever see him mistreat one?

A No.

Q Did you ever hear about any of those things?

A No, I never heard that.

MR. O'CONNOR: That is all.

PRESIDENT: Cross examination.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Menska, will you repeat the dates of this period of troop training in which you said Schreiber took part?

A From the middle of January until the middle of June, 1943.

Q Don't you know that the dates during which this training took place was the first half of the year, 1942?

A No, it was 1943.

Q You had duties inside the wire enclosure?

A No, they were trained in a purely military way.

Q You probably didn't understand my question. Were you inside the wire enclosure during that time?

A I never was inside there in all my life.

Q You don't know whether Schreiber was in there or not, do you?

A I don't know that, no.

MR. BERKOWITZ: That is all; no further questions.

PRESIDENT: Redirect?

MR. O'CONNOR: Nothing further.

PRESIDENT: Questions by members of the court? Colonel Burcham.

EXAMINATION BY THE COURT

QUESTIONS BY LT. COLONEL BURCHAM:

Q Did you hear of any other SS men mistreating prisoners?

A I didn't find out about anything.

Q Never heard nor saw anything, is that right?

A No, I never did.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect?

(Menska-Court)

MR. O'CONNOR: Nothing further.

PRESIDENT: Recross?

MR. BERKOWITZ: No, sir.

PRESIDENT: The court understands that the defense is finished with this witness. The witness will be excused.

(Whereupon the witness was excused and left the courtroom.)

MR. O'CONNOR: The defense calls as its next witness, Max Feichtmayer, if the court will grant permission to change the order of the witnesses who are scheduled to testify.

PRESIDENT: Permission is granted to change the schedule of witnesses.

MAX FEICHTMAYER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Will you state your name, please?

A Max Feichtmayer.

Q Where do you live?

A Munich.

Q What is your occupation?

A I was assistant administrator.

Q Of what?

A In Munich with the firm Ottenhuber.

Q Were you ever in Flossenburg?

A Yes.

Q When?

A From the 18th of December, 1941, until the 3rd of March, 1945.

Q Were you a prisoner or an SS man?

A Prisoner.

Ts 629
1of-3

Q What color triangle did you wear?

A First red, then green.

Q What were your duties in Flossenburg on or about the first of January 1942?

A I was an ordinary prisoner, so to speak.

Q When you were in Flossenburg, did you ever know a man by the name of Schreiber?

A Yes.

Q Will you look in the dock and see if you can locate him and point him out?

A That is him (indicating).

MR. O'CONNOR: Let the record show that the witness has identified the accused Schreiber as the man wearing No. 41.

Q When did you first know him in Flossenburg?

A I didn't learn to know Schreiber in Flossenburg.

Q Where did you first learn to know him?

A In the SS barracks, in the work detail in Huerenberg.

Q Was that an outcamp of Flossenburg?

A Yes.

Q What was Schreiber doing there?

A He came to Huerenberg during the night and introduced himself to the prisoners as a so-called work detail leader.

Q What was the date of his arrival?

A June or July, 1944.

Q How long did he stay there as detail leader?

A He stayed there until March--from 1943 to 1944.

Q Until March 1944?

A Yes, 7th of March.

(Reichtmayer-Direct)

Q What kind of a detail was that in Nuremberg?

A Clean-up detail.

Q Were you in that detail?

A I was capo.

Q Were you on that detail during the entire period of time that Schreiber was there?

A Yes, that is, with intervals of time when I was for a few months in Hersbruck and this detail also was under the supervision of Schreiber.

Q How often did you see Schreiber during that time?

A Between 1943 and 1944, I was for two months in Hersbruck. I was away from Nuremberg and I would see Schreiber twice a week there.

Q How often would you see him when he was in Nuremberg?

A Daily because I had to make reports to him.

Q When did you leave Nuremberg?

A The 7th of March, 1944.

Q Is that the same date that Schreiber left?

A Yes.

Q Where did you go at that time?

A I stayed in Flossenburg and became capo, camp capo.

Q Where did Schreiber go?

A He stayed 2 or 3 weeks in Flossenburg and then he went to Leitmeritz.

Q Is that an outcamp of Flossenburg?

A Yes.

Q What were his duties during those two or three weeks?

A As far as I remember, none.

Q How long did he stay in Leitmeritz?

A About two months.

Q When did you next see him?

Ta 629
1of-5

A When he came back from Leitmeritz. He came into the camp in civilian clothes and he addressed me and asked how things were going, and then after a leave he had then, he came to a women's work camp at Zwodau.

Q About what month was that?

A June.

Q Of what year?

A 1944.

Q Do you know how long he stayed in Zwodau?

A Until the middle of February, 1945.

Q Do you know what happened to him then?

A Then he was for several days here and then he went to the second transport in the front.

Q What do you mean by here, Dachau?

A No, in Flossenburg.

Q How many days did he stay there on that occasion?

A I would say a week, 8 days, something like that.

Q Then he went to the front, is that correct?

A Yes.

Q Did you ever seen him again in Flossenburg or at any of its outcamps?

A No.

Q What was the nature of your association with Schreiber in Flossenburg?

A As I already said, I learned to know him in 1943 and on the 7th of March when he came in the camp, he camp up and asked me how things were going.

Q Well, did you have any official association with him in connection with your duties in Flossenburg?

A No.

Q Do you know what his reputation was among the other prisoners in Flossenburg?

A No.

Q Do you know what it was in Nuerenberg?

A A good one, a good reputation.

Q Did you ever see Schreiber beat or mistreat a prisoner in Nuerenberg?

A No.

Q How many people died if you know during the months that you were in Nuerenberg under Schreiber?

A One.

Q Do you know what the cause of death was?

PROSECUTION: I object to that, may it please the court, unless the proper foundation is laid.

PRESIDENT: Objection sustained.

Q Was that one prisoner that you say died during the time you were in Nuerenberg, executed?

PROSECUTION: Objected to as leading and suggestive.

PRESIDENT: Objection sustained.

Q Please state the circumstances surrounding the death of that prisoner?

A This prisoner was a German citizen. He was a political prisoner from Dachau. He often complained about rheumatism and one day he laid down and died 14 days later.

Q Will you state to the court whether or not any executions took place in Nuerenberg during the time you were there?

A No, none.

Q Please explain to the court what the situation was at Nuerenberg with respect to the food that was given to the prisoners.

A In Nuerenberg, the food was very good, and the prisoners could scrounge up food for themselves on the side. The prisoners had gotten so much food by themselves that they even would turn some over to the SS guards who

A Yes.

Q You took orders from him and carried them out, is that not correct?

A Yes.

Q Schreiber carried a whip around in his hand, did he not?

A Not in the SS barracks in Nuremberg.

Q Where did he carry it?

A I don't know that because I never saw it.

Q You never saw Schreiber at any time, carrying a whip, is that correct?

A No, no not as long as I knew Schreiber.

Q How many capos were on the Nuremberg detail?

A Three; two political and I.

Q You were the criminal capo, is that correct?

A Yes.

Q You were appointed by Schreiber?

(Reichmayer-Gross)

were there.

Q How many prisoners were on that work detail in Nuremberg?

A 165 men, 65 prisoners from Dachau; 100 from Flossenburg.

Q During the time that you knew Schreiber in Flossenburg, will you explain to the court if you know, whether or not Schreiber was ever on an execution detail?

A I can't tell you that because I didn't see it and I never heard anything about it. I never heard anything about that until the present time, and I can't tell you whether that is true or not.

MR. O'CONNOR: That is all, sir.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY MR. DENSON:

Q You were responsible directly to Schreiber, were you not?

A No, Technical Sergeant of the SS, Sehmh from Dachau. That was his predecessor.

Q What was Schreiber's job in Hersbruck?

A He had five prisoners under his jurisdiction there.

Q Doing what?

A It didn't have anything actually to do with the camp of Hersbruck. The five were working in the troop transport economic section.

Q Doing what?

A We built horse stables and pig pens and a bunker.

Q What kind of bunker?

A Air shelter.

Q You remained in Hersbruck under Schreiber for what period of time?

A Two months.

Q What year?

A 1943, until Christmas.

Q In other words then, it was November and December of 1943, is that correct?

A Yes.

Q You are positive about that?

A Middle of November until January and then in January I was called back because word went around that we had to go.

Q The whole time that you knew Schreiber, did you ever hear of his beating prisoners?

A Only once.

Q When was that?

A It was in 1943.

Q What was the occasion for the beating?

A There was a Belgian there and he had got into touch with another Belgian

(Feichtmayer-Cross)

in the SS and through him he had written a letter 6 or 8 pages long which went to the SS headquarters and the report was made about this prisoner to Schreiber. Schreiber didn't send any report about that to Flossenburg but he beat the prisoner himself.

Q How many blows did he give him?

A We didn't see that. Schreiber was with this prisoner alone.

Q Then how do you know he beat him?

A I know it from the prisoner.

Q What did the prisoner say about the beating?

A He said that he had been beaten because of smuggling a letter and the next day he went back to work. He was an SS barber.

Q He was beaten with what? Did he say?

A That is to say, with the hands.

Q Of course, you didn't see any marks on the prisoner's face the next day, did you?

A No, otherwise he wouldn't have been able to go back to work.

Q That is the only instance you know of Schreiber beating prisoners, is that correct?

A Yes.

Q When did you say you first came to Flossenburg?

A 15th of December, 1941.

Q Now, didn't you know that on occasions, Schreiber administered the "25" to prisoners?

A No.

Q You never heard about that?

A No.

Q Did any prisoners get the "25" from Schreiber in Flossenburg that you know about?

A I don't know, I don't know whether Schreiber administered them or not.

(Feichtmayer-Cross)

Q Do you know whether a prisoner received the "25" from Flossenburg?

A Yes, I myself.

Q Was that done very frequently?

A Yes.

Q Where was the "25" carried out?

A In the prisoner's clerk's office.

Q As camp capo, did you ever administer that?

A Yes, twice. Once to a Russian, ten blows; and once 15 blows to a German citizen. 1st Lt. of the SS Baumgartner gave me this order.

Q Where was Schreiber at the time you were camp capo?

A In the outside work detail— Leitmeritz or Zwodau.

Q Do I understand your testimony to be that you never at any time saw Schreiber mistreat a prisoner?

A That is right.

Q What was the occasion of Schreiber being in civilian clothes?

A Leave—he was on furlough. I assumed that. I don't know.

Q You mean that soldiers in the German Army could wear civilian clothes on leave?

A I can't tell you that. I was never a soldier myself. At the end, I was a soldier starting the 3rd of March.

Q As camp capo at Flossenburg, you reported to Schreiber, did you not?

A Not in the camp. No, only in Nuremberg.

Q Were you also the capo of the detail at Hersbruck?

A Yes, but that isn't the same as the big camp at Hersbruck. That was in the camp where the troop's economic department was. That has nothing to do with the big camp.

Q While you were working under Schreiber, you had considerable amount of business with him, did you not?

(Feichtmayer-Cross)

A Yes, I had to make reports to him and he was telling me what work would be done and I had to distribute the work.

Q You also made deals with Schreiber, did you not?

A Yes, he would let me scrounge up food, and we would do the same for him.

PRESIDENT: Court will adjourn until 1330.

(Thereupon the court adjourned at 1200 hours.)

AFTERNOON SESSION

(Whereupon the court reconvened at 1345 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the defense are present with the exception of Mr. Hall and Mr. McKay who are absent on business of the accused; all the accused are present with the exception of Lipinski, Oswalt, Neye, Losch, Penz, Bussfeldt, Winkler, who are ill, and Dr. Schmitz who is conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel.

The witness is reminded he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination.

MAX FEICHTMAYER, called as a witness for the defense, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did you state whether or not your position as camp capo in Flossenburg was obtained through Schreiber?

A My position as camp capo was determined by Lt. Col. Koegel.

Q And that was done on the recommendation of Schreiber, was it not?

A I don't know that. At that time I didn't know

Schreiber. I became a capo in Nuerenberg because of 1st Lt. of the SS, Schuh.

Q I am talking about camp capo.

A The 7th of March 1944 I came back into the camp.

Q Just answer my question, please. Is it not a fact that you obtained your position of camp capo in Flossenburg as a result of Schreiber's recommendation?

A I can't tell you that. At the end of March on a Sunday morning during roll call I was picked out of the rank and told I would be camp capo and Lt. Col. Koegel determined that position for me.

Q Didn't you have a conversation with Schreiber relative to your appointment as camp capo?

A No.

Q Never at any time?

A No.

Q You were a good friend of Schreiber, were you not?

A That wasn't any kind of friendship, he was my superior.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

MR. O'CONNOR: No questions.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Just when did you become camp capo at Flossenburg?

A The end of March '44 until the 7th of September '44,

(Feichtmayer-cross,court)

and then I came back from the detail Zwickau and the work service leader, Sgt. of the SS Mueller, was there and on the 12th of January 1945 I came back into the camp again and from the 13th of January until the 3rd of March I was again camp capo.

Q What year was that?

A 1945.

PROSECUTION: May it please the court, I should like to ask the interpreter if he translated everything that was said. Did he mention at any time, Lipinski's name?

INTERPRETER: Lipinski was my successor, he came from Gross Rosen. I did not hear that.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q What was the date you saw Schreiber back in Flossenburg in civilian clothes.

A That was the end of March 1944, around the middle or the end. In the center of March 1944 he came back in the SS barracks in Nuremberg and Schreiber was two or three weeks in Flossenburg, and at the end of that he went to Leitmeritz.

Q Just answer my question. Just where was it you saw Schreiber.

A Outside the camp.

Q Where?

A That is to say it was in the camp but not inside the barbed wire. It was near the commandant's office and the SS barber shop.

LT. COL. BURCHAM: No further questions.

(Feichtmayer-court)

PRESIDENT: Any further questions by members of the court? Apparently not. Defense?

MR. O'CONNOR: Nothing, sir.

PRESIDENT: The court understands the defense is finished with this particular witness? Court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order. Witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: Mr. O'Connor?

MR. O'CONNOR: If it please the court the next witness called for the defense is Martin Dorn, testifying in behalf of the accused, No. 17, Naubold, and for the limited purpose of merely a character witness.

MARTIN DORN, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR O'CONNOR:

Q State your name, please.

A Dorn, Martin

Q How old are you?

A 31 years old.

Q Where are you residing at the present time?

A In the Main Camp, the Special Camp.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: The court advises you that should you be asked any question that might tend to incriminate you,

you have the right to ask the court to refrain from answering that particular question. Do you understand?

WITNESS: Yes.

PRESIDENT: Proceed, Mr. O'Connor.

QUESTIONS BY MR. O'CONNOR:

Q Do you know a man by the name of Gerhard Haubold?

A Yes.

Q Will you look in the dock and see if you can pick him out?

A Here (indicating).

Q Stand up. What number?

A 17.

MR. O'CONNOR: The witness has identified Haubold as 17.

Q How long have you known him?

A Since '42.

Q Please state to the court the nature of your association with Haubold.

A I know him from the Ordnance Dept. where I was employed.

Q Where were you when you first knew him?

A Auschwitz.

Q In what capacity were you there?

A I was with the dog staff.

Q Were you a member of the SS?

A Yes.

Q What was your rank?

A Private in the SS.

Q How old were you when you first knew him?

A 17½ years old.

Q What was Haubold doing in Auschwitz at that time?

A He was a top sergeant of the dog battalion there.

Q What was the nature of your association with Haubold?

A He was a 1st sergeant in the SS and he was my superior.

Q Did you have to work with him every day?

A Yes.

Q What were your duties?

A I had to clean up the room and keep all the clothing in shape.

Q Were you his orderly?

A Yes.

PROSECUTION: May it please the court, I object to this line of testimony on the grounds it is immaterial and irrelevant to the issues of this case, the situs of which took place around Flossenburg and the by camps of Flossenburg.

MR. O'CONNOR: May I be heard, sir?

PRESIDENT: Proceed. Make it short.

MR. O'CONNOR: Inasmuch as this charge of a common design is filed against all these men and is covered by the time of the charges, '42 forward, I must lay a foundation for the limited purpose of seeing this man retained his policy for truth and veracity during that time.

PRESIDENT: All right, proceed, objection overruled.

QUESTION BY MR. O'CONNOR:

Q How often did you see Haubold?

A When, please?

Q In '42 onwards, all the time you were with Haubold.

A I usually saw him in Auschwitz.

Q How often?

A Practically all day long, every day.

Q Did you ever see him in Flossenburg?

A Once in a while I'd see him in Flossenburg, in the movie house.

Q When did you come to Flossenburg?

A February.

Q When did Haubold come?

A We came together.

Q Do you know Haubold's reputation for truth and veracity?

A Yes.

PROSECUTION: May I object to that on the grounds he has not stated where or when?

PRESIDENT: Just a minute. The witness has already answered the question. Do you desire to make a motion to strike the answer?

PROSECUTION: I move that the answer be stricken on that ground.

PRESIDENT: Motion to strike is sustained.

QUESTIONS BY MR. O'CONNOR:

Q Were you at Camp Flossenburg until the camp was evacuated?

A Yes.

Q Starting from the period of time when you first knew Haubold at Auschwitz, up to and including the date of the evacuation of the camp at Flossenburg, did you know Haubold's reputation in that community for truth and veracity?

A Yes.

Q What was it?

A Haubold always spoke the truth.

LT. COL. SKIELVIG: Once there you said "February". He came to Flossenburg in what year?

QUESTIONS BY MR. O'CONNOR:

Q What year in February did you come to Flossenburg?

A '45

MR. O'CONNOR: No further questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did you ever discuss Haubold's reputation for truth and veracity with any of the other SS men?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

MR. O'CONNOR: No, sir.

PRESIDENT: Questions by the court? Apparently not. Is the defense finished with this witness?

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. O'CONNOR: The next witness will be called for the same limited purpose, Hans Merbach.

HANS ERICH MERBACH, called as a witness by the defense being first duly sworn, testified through an interpreter, as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q What is your name, please.

A Hans Erich Merbach.

Q Are you being held by the American authorities at the present time?

A Yes.

Q Where?

A At the present time in the Special Camp.

Q In Dachau?

A Yes, Dachau.

PRESIDENT: You are advised that if at any time you should be asked any question that might tend to incriminate you, you have the right to ask the court to refrain from answering that particular question. Do you understand?

WITNESS: Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. O'CONNOR:

Q Were you a member of the SS?

A Yes.

Q Where were you stationed in 1942?

A In '42 I was still in Buchenwald.

Q Where were you in '43?

A In Auschwitz.

Q What was your rank?

A 1st lieutenant.

Q When did you go to Auschwitz?

A January '43.

Q When you were there did you get to know a man by the name of Gerhard Haubold?

A Yes, that was the top sergeant in my company.

Q Will you please look in the dock and see if you can identify him. Stand up.

A Here (indicating).

Q What number?

Q 17.

MR. O'CONNOR: Let the record show the witness has identified Haubold as No. 17.

Q Will you please state to the court the nature of your acquaintance and association with Haubold?

A I was the superior of Haubold.

Q About how often would you see Haubold?

A Every day I was together with Haubold. I was his company commander.

Q How long did you know Haubold?

A I knew him from June or July of 1943 up.

Q Will you please state to the court whether your friendship or acquaintance with him was an intimate one or a casual one?

A I knew him very well, he was my top sergeant in my company.

Q When did you leave Auschwitz?

A January '43 it must have been.

Q During the period covered by the time of your first acquaintance with Haubold up until January 1945, did you know Haubold's reputation in that community for truth and veracity?

A Yes, Haubold was a man who loved the truth. He had a decent and honest character.

PROSECUTION: Just a minute. I move to strike that answer, may it please the court, as going beyond the scope of the question that was asked, and it is improper.

PRESIDENT: Repeat the question and answer, please.

(Whereupon the reporter read the last question and answer.)

MR. O'CONNOR: May I ask something, please

PRESIDENT: Yes.

MR. O'CONNOR: I should like to know whether the motion is to strike the whole answer or everything after the word "yes".

PROSECUTION: Everything beyond the word "yes" may it please the court.

PRESIDENT: The motion to strike is sustained.

MR. O'CONNOR: Is it my understanding the word "yes" remains?

PRESIDENT: Yes. The part stricken will be after the word "yes".

QUESTIONS BY MR. O'CONNOR:

Q What was his reputation for truth and veracity at that time, good or bad?

A He had a very good reputation and -

MR. O'CONNOR: That is all.

PRESIDENT: Cross examination.

QUESTIONS BY PROSECUTION:

Q Did you ever discuss Haubold's reputation with any of the SS men there in Auschwitz?

A No.

Q As a matter of fact that is your own personal opinion and not what was the general reputation, is that not true?

A No, that's my own personal opinion.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

MR. O'CONNOR: Nothing, sir.

PRESIDENT: Questions by the court? Apparently not. Is the defense finished with this witness?

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. O'CONNOR: The next witness for the defense is Johann Filep, another character witness to testify in behalf of Haubold.

JOHANN FILEP, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q What is your name, please?

A Filep, Johann.

Q How do you spell the last name?

A F-i-l-e-p. That is my family name.

Q Are you at present being held by the American authorities in Dachau?

A Yes.

PRESIDENT: You are advised that if you should be asked any questions which might tend to incriminate you, you have a right to ask the court to refrain from answering that particular question.

THE WITNESS: Yes.

PRESIDENT: Do you understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Mr. O'Connor.

QUESTIONS BY MR. O'CONNOR:

Q Were you a member of the SS in 1943?

A Yes.

Q What was your rank?

A Sergeant.

Q Where were you stationed?

A In Auschwitz.

Q When you were in Auschwitz did you get to know a man by the name of Gerhard Haubold?

A Yes.

Q Will you please look in the dock and see if you can pick him out?

A He is sitting back there (indicating).

Q What number?

A Seventeen.

MR. O'CONNOR: The witness identified No. 17 as Haubold.

Q When did you first get to know him?

A August 1943.

Q Where was he?

A He was my top sergeant at Auschwitz.

Q How often did you see him in Auschwitz?

A I saw him rather often; almost every day.

Q Will you state to the court the nature of your association and friendship with Haubold?

A I was with Haubold until the 15th of January, 1945. He was the top sergeant in my company.

Q What happened then?

A Then we left. Then we met ourselves again in Berlin, and after that I didn't see him again. We parted.

Q What was that date?

A That was during the last days of January 1945.

Q During the period of time that you knew Mr. Haubold in Auschwitz, did you know his general reputation for truth and veracity in the community of Auschwitz? Answer that yes or no.

A Yes.

Q What was it? Good or bad?

A Good.

MR. O'CONNOR: That is all.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did you ever discuss Haubold's reputation with the other SS men there?

A We often talked about that with the comrades and people there in that community.

Q When you talk about the community of Auschwitz you refer to the SS men in Auschwitz, do you not?

A Yes, the SS community. We didn't come into contact with anyone else.

Q And the SS did not believe in God, did they?

MR. O'CONNOR: If the court please, I object to that question because it is highly improper.

PROSECUTION: I would like to be heard on that, may it please the court.

MR. O'CONNOR: We have put him under oath. You should have brought it up at that time.

PRESIDENT: All right. Proceed.

PROSECUTION: May it please the court, this man is testifying with respect to another man's reputation for truth and veracity. It is perfectly proper to show the standards that exist in determining whether this man's reputation for truth and veracity is good or bad, and, if it is good, how good it is.

He has testified that he discussed this among the SS men there at Auschwitz, and we have a perfect right to ascertain from this witness what those standards were there at Auschwitz. There is no obligation on the part of counsel to raise any such question at the time this witness begins to testify, for he may believe in God Almighty or he may not. That is not the question.

I submit that it is perfectly proper, as going to the question as to what that standard of credibility or what that standard of truth

and veracity is.

DEFENSE COUNSEL: May it please the court, at quite an early stage of this case the court held defense counsel out of order for asking a witness who was then on the stand a question which was considered to touch upon his religious beliefs or the extent to which all members of a certain faith followed their religious beliefs.

I submit that this question again touches upon the religious beliefs, and is by that same standard out of order.

PRESIDENT: The objection of Mr. O'Connor is sustained.

QUESTIONS BY PROSECUTION:

Q Did you ever discuss Haubold's reputation for truth and veracity with the prisoners that were still living at Auschwitz?

A No. I didn't have any contact with prisoners.

Q What was the occasion of the SS men discussing Haubold's reputation for truth and veracity?

A I can give you an example for that. Whenever one had family trouble--there was some trouble at home--the mother or the wife or the child was sick, then the man would come to him and he would see to it that things were brought into order so that the man could go home and take care of his private matters.

Q And that is on what you base your answer that his reputation for truth and veracity is good; is that correct?

A Yes.

PROSECUTION: Nothing further.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Is that the only thing you base it on?

A And he always took care of us. As far as I know he didn't have any contact with the prisoners in Auschwitz either. He was a top sergeant in Auschwitz, and he took care of us and the company, and as a top sergeant he showed himself to be a comrade in regard to us.

Q Do you understand what the word "reputation" means?

PRESIDENT: Hold him up on the answer.

PROSECUTION: I object to that question, may it please the court, as being improper. If there is any effort made to impeach the witness, then I submit that the proper predicate has not been laid to do so.

A Reputation? Yes.

PROSECUTION: I move to strike that answer on the ground that it is improper redirect examination.

MR. O'CONNOR: I am certainly not trying to impeach my own witness. I am trying to clarify his answer.

PRESIDENT: The objection is overruled.

QUESTIONS BY MR. O'CONNOR:

Q What do you understand the word "reputation" to mean?

A Reputation is what other people think of a man; whatever they say about him.

MR. O'CONNOR: That is all.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q And you base your answer, Filep, on the proposition that he was kind to the SS and he helped the SS when they were in difficulty; is that correct?

A There weren't any difficulties, but he would help the people

wherever he could, and in the evening when he would give his orders he said, "Keep your fingers off the prisoners. There won't be any beating."

PROSECUTION: No further questions.

PRESIDENT: Questions by the court. Major Lanham.

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Did you ever hear of the other SS men discussing the reputation of Haubold?

A They would often talk about that when we were up in the room, and I never heard anyone say anything bad about Haubold.

Q Did you ever hear them say anything good about Haubold?

A Yes. The people would carry on conversations about these matters which I have already testified to in court about.

Q What was the consensus of the opinion? Was it that his reputation was good or that his reputation was bad?

PROSECUTION: May it please the court, I believe this has been limited thus far to reputation as to truth and veracity. Is that what the court has in mind?

LAW MEMBER: No. If the defense has any objection to opening up this field, I will not go into it.

MR. O'CONNOR: There is no way I can stop the court if they want to go into it..

LAW MEMBER: Is there any objection on your part?

MR. O'CONNOR: No, sir. I have been told before that the court was unlimited in its questioning because they wanted the facts, and I assume that rule still prevails here.

PRESIDENT: You can make an objection and the court will consider it.

MR. O'CONNOR: No, sir, I have no objection.

PRESIDENT: The court is more or less unlimited in the questions they can ask.

MR. O'CONNOR: That is my understanding.

PRESIDENT: Of course, the question must be relevant to the issue.

QUESTIONS BY LAW MEMBER:

Q I will withdraw the question and ask the witness if he ever heard any discussion by the other SS men as to whether or not Haubold was truthful.

A Yes.

Q Was the consensus of opinion that he was truthful or that he was not truthful?

A At any rate, as far as I know nobody ever said anything bad about him.

LAW MEMBER: That is all.

PRESIDENT: Any further questions by members of the court? Colonel Burcham.

QUESTIONS BY LT. COL. BURCHAM:

Q What was the reason for those men talking about the truthfulness of Haubold?

A First of all, because of this reason which I have already told the court about, and then I don't know exactly why the people always talked about it. I never heard anyone say anything bad about him, as far as I know.

Q Did you have a platoon leader in your outfit?

A Yes.

Q Did the people talk about his reputation for truth and veracity?

MR. O'CONNOR: I do object to that question. It is immaterial and irrelevant.

PRESIDENT: Was the answer given?

A Over whose reputation are they supposed to have talked?

QUESTIONS BY LT. COL. BURCHAM:

Q Over your platoon leader's reputation for truth and veracity.

PRESIDENT: Objection overruled. Proceed.

A Yes, they also talked about the platoon leader.

Q Did they talk about your reputation for speaking the truth?

MR. McKAY: The question is objected to for the reason that a man does not know his own reputation in the community.

PRESIDENT: Objection overruled.

QUESTIONS BY LT. COL. BURCHAM:

Q Did they talk about your reputation?

A I still don't know that. I can't know that.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SMYLY:

Q How long were you in the SS?

A Three and a half years.

Q How many first sergeants or top sergeants have you had, roughly?

A Three; four in all.

Q Have you ever had any who were untruthful?

A I can't tell you that because I didn't know them in detail all the time. I was with Haubold for the longer period of time.

LT. COL. SMYLY: Nothing further.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. O'CONNOR: No, sir.

PRESIDENT: The court understands the defense are finished with this witness.

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

(Filep - Court)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

DEFENSE COUNSEL: May it please the court, the defense calls as its next witness Anton Peter, on behalf of prisoner No. 6.

ANTON EMIL RICHARD PETER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q I am asking my questions in behalf of the accused No. 6, Brusch.

What is your full name?

A Anton Peter.

Q Please spell your last name.

A P-e-t-e-r; Emil Richard.

Q How old are you?

A I will be 36 on the 21st of December.

Q Are you married?

A Yes.

Q Where do you live?

A In Altenstadt, near Neustadt, on the Waldnaab River.

Q What is your profession?

A My learned profession is a polisher of glass.

Q What is your present profession?

A I am assistant in the national railroads.

Q What profession did you have on the 17th of April, 1945?

A I was a supervisory official.

Q Where?

A The railroad station in Weiden.

Q Do you remember the 17th of April, 1945?

A I can't remember that date directly.

Q Do you remember that a female transport of prisoners arrived at the railroad station in Weiden at that time?

A Yes.

Q Do you know when that was?

A That must have been in the course of the morning.

Q I mean whether you remember the date.

A I don't know any more exactly.

Q Mr. Peter, please describe the duties which you had to take care of at the railroad station in Weiden then.

A As a supervisory official I had to see to it that the trains arrived on time, and that everything went smoothly, and that the trains left again on time.

Q Did you wear a red cap?

A Yes.

Q What official designation did you have?

A An assistant in the national railroads.

Q Could you see what would take place in the railroad station?

A Yes, I could see what was going on around the northern railroad station, inasmuch as anyone could see.

Q Mr. Peter, please describe briefly the terrain around the railroad station in Weiden.

A As a supervisory official I had to supervise the first five rails. They were under my control.

Q How many tracks did Weiden have altogether?

A There were actually ten tracks of the tracks which you could mention.

Q Where was your office located?

A There was a small office set up on track 3.

Q How far away is the actual railroad station?

A Tracks 1 and 2 lie in between.

Q What is located around the terrain of the railroad station?

A The city lies over on the left-hand side directly.

Q I must tell you that a woman witness appeared here and said that there was a forest at a distance of 60 meters, and I want to ask you where this forest is located.

MR. BERKOWITZ: That question is objected to. It is not the province of counsel to inform the witness what a previous witness has said. It is not the proper kind of question. It is improper in form and it is leading.

PRESIDENT: Objection sustained.

Q Mr. Peter, please describe in a circumference of 500 meters everything that was located around the railroad station in Weiden.

A The city.

Q Does the city surround the railroad station on all four sides?

A On the south side there are two factories. One is a glass factory; the other is a porcelain factory. And to the right of that in a southerly direction is the main railroad office, and to the right and left in a northerly direction lies the city.

Q At what distance from this railroad station in Weiden is there a forest?

A I can't say it exactly, but I believe that must be three kilometers away.

Q Can you see this forest from the railroad station in Weiden?

A Looking out from the south railroad station down to the south on the right side you could see it.

Q Do you know the town of Irrenlohe?

A Yes. That is a station before Schwandorf.

Q Were you ever at Irrenlohe?

A I drove through there. I never stopped there.

Q Do you know the railroad station terrain in Irrenlohe?

A I don't know it.

Q Do you know how far away from the railroad station terrain in Irrenlohe a forest is located?

A I don't know.

PRESIDENT: The court will take a half-hour recess.

(Whereupon the court recessed at 1500 hours.)

(Whereupon the court re-convened at 1535 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the members of the defense are present, with the exception of Mr. Hall, who is absent on business of the accused; all the accused are present with the exception of Lipinski, Losch, Hasefeldt, Winkler and Penz, who are ill and whose interests are being taken care of by counsel, and Blomberg and Schmitz, who are conferring with counsel.

The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: The court has appointed Leona Humedy as reporter. She will be sworn.

(Thereupon Leona Humedy, having been appointed reporter, was duly sworn.)

PRESIDENT: Continuation of direct examination, Dr. Wacker.

DR. ACKER: May I have the last question re-read.

(Thereupon the reporter read the last question as follows:) "Do you know how far away from the railroad station terrain in Irrenlohe a forest is located?" Answer: "I do not know".

ANTON DIEL RICHARD PETER, having been called as a witness by the defense, and being reminded that he was still under oath, resumed the stand, and testified further through an interpreter as follows:

DIRECT EXAMINATION CONTINUED

QUESTIONS BY DR. WACKER:

Q Do you remember any date in Weiden when a prisoner

transport with women arrived?

A Yes.

Q What time of day was that?

A It was in the course of the forenoon.

Q Where did the train stand at the railroad station at Weiden?

A On the fifth track there was a passenger train and back on behind that train, attached to it, there were a few cars with the prisoners.

Q What kind of train was that, I mean referring to the individual cars?

A It was a regular passenger train, and I can't remember what kind of cars the prisoners were in.

Q Was this passenger train a train which arrived according to schedule?

A Yes.

Q How many cars with prisoners in them were attached to this train?

A I do not know any more exactly whether it was two or three cars.

Q Did anything unusual happen on this morning in question when this train with prisoners cars arrived in Weiden?

A Yes.

Q What happened?

A There was a strafing attack.

Q Please tell us what happened?

A The passenger train was sent in on the fifth track of Section 3, and was right there when the attack was reported. The main railroad official said to me, "Danger, there is danger of a strafing attack."

Q What did you do then?

A I ran over to the third ramp to see to it that announcements were made on the loudspeaker to everybody that there was danger

of a strafing attack. That is what I wanted to do, but it didn't work out because I do not believe there was any more current. Then I went down the whole length of the train and told everybody there was danger of a strafing attack and people should seek shelter in the cellars.

Q Are you referring to the train of prisoners or another train?

A I am referring to this train.

Q What did you do then with this train?

A I went down the whole length of the train telling the people of the danger of a strafing attack and that they should go to the cellars to seek shelter.

Q Did they do that? Did the passengers do that?

A Yes, they all got out of the train and then I remember there was a sergeant from the Wehrmacht up front. He told me they should not make such an announcement because they had not even sounded the siren yet.

Q Did this sergeant belong to the passenger train?

A No.

Q What did the people on the transport of prisoners do?

A I cannot remember that because I started at the rear of the train and ran forward to the head of the train. Then I went to ramps 2 and 1 and came back.

Q Did the prisoners get out of the train or not?

MR. BERKOWITZ: The question is objected to on the ground that it is leading.

PRESIDENT: Objection sustained.

Q What happened then?

A I went over to the main rail director, and in the meantime, a second train had arrived. I said to myself, "We better warn those people also," so I went to ramp 2 and told them to

guard against a strafing attack.

Q During that time could you observe the original train with the prisoners?

A I didn't have any time for that because during the time I was at ramp 2, the strafing attacks started, they started shooting.

Q Where did you stay during the air raid attack?

A When they first started shooting, I ran down to the fourth underpass and stayed there, and as soon as the plane gained altitude again I went back to the office of the main rail director, and then I went down into the cellar and stayed there until the all-clear was sounded.

Q How long did the air raid last?

A It lasted quite a long time since some planes left and others came; it lasted practically the whole morning.

Q Mr. Peter, please estimate the length of this air raid attack, as best you can, I mean, the time you stayed under cover?

A I stayed around down there for a long time. My nerves were in such a shape, I cannot really estimate the time then.

Q Mr. Peter, please give us some rough estimation. Do you call three-quarters of an hour a long time, or would you say it lasted two hours?

A I believe it lasted at least one-half or three-quarters of an hour.

Q What did you see then after the air raid had ended?

A We stayed down there in the shelter until the report came in that the air raid was over, and then we slowly opened up and came out again.

Q What did you see then?

A I was one of the last to come out and then I stood at the door at the entrance and I saw a number of women, hand in hand on

the ramp fighting each other.

Q What kind of women were they?

A They must have been prisoner women.

Q How many such prisoner women did you see?

A There were a number of prisoner women. They were hanging on to each other, tearing each other's hair and were really going to town there.

Q Where were they fighting?

MR. BURKOWITZ: I object to that as calling for a conclusion of the witness. He has not laid any foundation for it.

PRESIDENT: Objection sustained.

DR. WACKER: I would like to know what he saw.

PRESIDENT: Form your predicate, Dr. Wacker.

Q Please describe the observations which you might have made according to which you assumed that these women might have been fighting.

A They were fighting for food, for food wares.

Q How did food end up in the train station in Weiden?

A There was some baggage standing at the ramp and they were going after these packages there.

Q Did you see any women take packages?

A No, I did not see that.

Q Did you see anything else which would lead you to believe that the food came from packages?

A The ramp was covered with pieces of paper and remainders of packages and boxes.

Q What condition were the cars in, in which the prisoners arrived?

A I cannot tell you that, of course.

Q Did the prisoners still occupy the cars?

A Part of them were running all over the place there fighting.

Q Did you see any guards?

A I didn't see any and after the people started coming out of the cellars and the women had been fighting, I saw two railroad men whom I know come over and separate the women.

Q When you say that you did not see any guards, are you referring to the time directly after the air raid or didn't you see any guards at any time?

A Who was there during the air raid, I cannot judge as I was in the cellar, I had to go in the cellar to get shelter. When I came out, I saw these dames, that is to say, these women fighting there and I saw two railroad men go over and try to break them up.

Q What happened to these prisoner women?

A They tore these women apart from each other and the women went over and got in their cars.

Q What happened later on with the prisoners?

A I have not got any idea.

Q Didn't you have any more duty at the railroad station at that time?

A Well, in the meantime, it had become noon, and at noon, I had time off.

Q During the whole time, did you see any guards at all?

A During the course of the forenoon, the tracks were torn up, the cars were damaged, and we were looking at everything that occurred.

Q Did you have any conversation with the engineer or any guards in this prisoners' train?

A No, during that time I did not see any.

Q And later on?

A And later on, there were various ones running around by themselves.

Q What did they do?

A They were just running around. No one was paying attention to anyone else. They were looking at the sky to see if any more airplanes were coming.

Q Who was the director of the rail center there that day?

A There was a chief secretary, Dambeck.

Q Do you know his address?

A I do not know that because he was transferred in the meantime.

Q Could you find out his address in Weiden?

A The people in Weiden will certainly know it.

Q Who can give me some information about that?

A The main office of the works there.

DR. WACKER: No more questions.

PRESIDENT: Cross-examination, Mr. Berkowitz?

MR. BERKOWITZ: No questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COLONEL SKIELVIG:

Q Were those cars on which you saw these prisoners ordinary freight cars, or were they passenger cars?

A I cannot really tell you anything more about it. I do not remember.

PRESIDENT: Any other questions by members of the court? Apparently not. Re-direct?

DR. WACKER: No more questions.

PRESIDENT: The court understands the defense is finished with this witness.

DR. WACKER: Yes.

PRESIDENT: The witness will be excused.

(Peter-Court)

(Whereupon the witness having been duly excused by the court, withdrew from the court room.)

DR. ENGELHORN: I call now, Wolfgang Herzig, as a witness for the accused Wodak.

WOLFGANG HERZIG, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Mr. Herzig, please tell us your full name?

A Wolfgang Herzig.

Q How old are you?

A 37 years old.

Q Are you married?

A Yes.

Q Where is your ordinary residence?

A Nuerenberg.

Q Where are you at the present time?

A At the special camp.

Q Are you in American custody?

A Yes.

PRESIDENT: You are advised that if you should be asked any question which might tend to incriminate you, you have a right to ask the court to permit you to refrain from answering that particular question. Do you understand?

WITNESS: I beg that that be repeated again.

(Whereupon the interpreter repeated the statement of the president.)

PRESIDENT: Do you understand now?

WITNESS: Yes.

MR. BERKOWITZ: May I be allowed a minute or two until I can get this witness' file?

PRESIDENT: The court will recess in place.

(Whereupon the court recessed in place until 1605 hours.)

PRESIDENT: The court will come to order.

QUESTIONS BY DR. ENGELHORN (continued)

Q Mr. Hertzig, were you ever at Pottenstein?

A Yes.

Q In what capacity were you there?

A On 30 May 1943, I went there for the first time. I went there to join a new mountain unit which they were just setting up, and on the 8th of August, we went to Italy. I was wounded in Italy and on the 16th of January 1944, I was sent to Pottenstein to the replacement troops there.

PRESIDENT: Dr. Engelhorn, let us have this witness omit his personal history, unless you have a particular reason for bringing this in.

DR. ENGELHORN: No, I have not.

Q How long were you in Pottenstein for the second time?

A I stayed there until the 7th or 8th of August 1944, in Pottenstein.

Q Was there a prisoners camp in Pottenstein also?

A Yes.

Q Did you have anything to do with this prisoners camp?

A Personally, I had nothing to do with this camp.

Q Do you know who the chief of the prisoners camp at Pottenstein was?

A Sergeant of the SS, Wedak.

Q Do you recognize him again to-day?

A Yes.

Q Please look over in the dock and see if you can pick him out?

A Yes, up there against the wall.

Q What is his number?

A Number 50.

DR. ENGELHORN: Let the record indicate the witness has correctly identified number 50, as the defendant Wodak.

Q Did you have occasion to come together with Wodak?

A Yes.

Q Where?

A I was top sergeant of this company and we had about 56 horses and we had a lot of wagons for the horses and people came to us and asked us for vehicles so that we could pick up extra food, potatoes, turnips, and so on, for the prisoners.

Q Who wanted to get extra food for the prisoners?

A Wodak.

Q Did they get any other kind of food?

A I know he went to the town of Pottenstein and borrowed three to five thousand marks so that he could get extra food for the prisoners, and it was on the 14th of April 1945, that the major of Pottenstein stopped me and asked me if he would get his money back, in view of the fact the American troops would take the town at any minute.

Q What did you buy with this money?

A I know that as soon as he found out a cow or a horse had broken its leg, he would immediately go over and buy it for food for his unit. I had occasion to go and buy a lot of fruit in very good condition. The money involved 800 marks. Wodak turned over the money to me and I brought back plums, pears and cherries. And the comrades in my unit told me that Wodak activated a comrade club there in the unit and the men would get food and beer. And I also know that besides that, Wodak saw to it that the men in his outfit, prisoners, would be allowed to work after hours at private work among the citizens, and they could get food from them, and you could often see people on the street carrying these large

packages.

Q Did you make any personal observations as to how he treated the prisoners?

A I had occasion to converse often with prisoners. They would come to me with some personal matter and on those occasions they would constantly talk about Wodak and praise him. Beside that, I knew that Wodak saw to it that beer was brought there from Wagner, in Pottenstein for his men.

Q I must repeat a question because the answer perhaps was not translated correctly. Did you see that Wodak had bought a cow or a horse whose leg was broken for the prisoners?

MR. BERKOWITZ: I object to this line of questioning. It consists of prompting the witness. The witness did not say that, — that these articles were bought for the prisoners. I ask that the answer be stricken.

PRESIDENT: The motion to strike is sustained. Clarify the matter, Doctor, or ask another question. Proceed Doctor.

DR. ENGELHORN: I beg that my last question be re-read. I cannot remember it any more.

PRESIDENT: Was that the question, the answer to which was stricken?

DR. ENGELHORN: Yes.

PRESIDENT: The reporter will read the last question and answer.

MR. BERKOWITZ: May it please the court, I object to its being translated. I objected to this because the nature of it prompted the witness. I ask it be not repeated because it is objectionable and I ask it be not translated.

PRESIDENT: Objection overruled. The reporter will read the question.

(Whereupon the reporter read the question, as requested.)

PRESIDENT: Allright, Doctor, the answer was stricken.

DR. ENGELHORN: I asked differently. Now, I will ask a new question.

QUESTIONS BY DR. ENGELHORN (continued)

Q Did you say in the course of your testimony that Wodak bought a cow or a horse for his prisoners?

MR. BERKOWITZ: I object to that, sir, the record speaks for itself.

PRESIDENT: Objection sustained. Doctor, we will have a short recess and give you a chance to check the record. The court will take a short recess in place.

(Whereupon the court took a recess in place until 1620 hours.)

PRESIDENT: The court will come to order. Allright, Doctor, proceed.

Q Mr. Herzig, for whom did the accused Wodak buy this cow or this horse?

A Wodak told me for the prisoners, that he had bought these things for his prisoners, not only one cow and one horse, but a number of cows and horses, -- I cannot give you the exact number.

Q In what room did he have those comrade meetings with the prisoners?

A With the prisoners, in the shelter where they were.

DR. ENGELHORN: I have no more questions.

PRESIDENT: Cross-examination? Mr. Berkowitz.

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Herzig, when did you become a member of the party?

A 1932.

Q When did you become a member of the SS?

A In May 1933, I became a member of the Allgemeine SS.

Q What was the highest rank you achieved in the SS?

A I became technical sergeant in the Allgemeine SS; in the Waffen SS, I became first sergeant.

Q Did you ever go inside the camp in Pottenstein?

A Yes, once.

Q Did you see the prisoners eating at that time?

A And then again, Wodak showed me a flush toilet which he had erected there; before that time there had just been open latrines.

Q Mr. Hersig, when I ask you a question, just answer it and do not evade it. Did you ever see the prisoners eating in Pottenstein?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Re-direct? Dr. Engelhorn.

RE-DIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Please tell the court if you ever observed prisoners coming out of the camp?

A In the morning, they were led out of the camp, they were brought out of the camp and led to their places of work.

Q Did it ever happen that the prisoners, on other occasions, came out of the camp?

A Yes, in the evening, after the work was finished, they would come to the civilian population and help the people there, perhaps cut wood for them.

Q Who supervised the prisoners who were out there in the evening?

A There were guards which were posted among them.

DR. ENGELHORN: No more questions.

PRESIDENT: Re-cross? Mr. Berkowitz.

RE-CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Were these people sent out to work for the civilian population,

after they had done their regular work, required to do this by the camp officials?

A These people worked there voluntarily because of extra feed from the people.

Q Did you talk to these prisoners?

A Here and there I talked to one or another.

Q Which one did you talk to?

A I cannot remember them any more to-day personally.

Q In what language did you speak to them?

A Only in the German language.

MR. BERKOWITZ: Nothing further.

PRESIDENT: Questions by members of the court? Apparently not. Re-direct?

DR. ENGELHORN: No more questions.

PRESIDENT: The court understands the defense is finished with this witness.

DR. ENGELHORN: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness, after being duly excused by the court, withdrew from the court room.)

DEFENSE: At this point, the defense had planned to put on the accused, Reupsch, who is at present consulting with counsel. Reupsch has requested more time to consult with counsel. Therefore, I request the court for an adjournment until 9:00 o'clock to-morrow morning.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place until 1635 hours.)

PRESIDENT: The court will come to order. The court will adjourn until 9:00 o'clock to-morrow morning.

(Whereupon the court adjourned at 1636 hours to reconvene at 0900, 26 November 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

Case No. .....

*~~Summary~~

*~~Intermediate Military Court~~

*General

Place DACHAU, GERMANY

Date 26 November 194 6
0910 - 1645 Hours

~~Members of Court~~

WITNESSES:

WALTER REUPSCH
EDUARD KARL BELGER

Pages 7243 - 7319 Incl.

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

(Signature of reviewing authority)

*Strike out words not applicable.

[illegible]

in trial of

THE UNITED STATES Versus FRIEDRICH FLICKER, [illegible]

by

GENERAL MILITARY GOVERNMENT COURT

tried at

NURNBERG, GERMANY BEGINNING 12 JUNE 1946

26 November 1946 0910 - 1645 Hours Pages 7243 - 7319 incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
WALTER REUTSCH	7255	7270 7277	7293 7297 7301	7297 7301 7303	7297 7299 7303
EDUARD KARL FALGER	7305	7311			7317

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-54	Sample File Card	7247	7248
D-54-A	English Translation of D-54	7247	7248
D-55	Sample Certificate of Receipt and Issue	7248	7253
D-55-A	English Translation of D-55	7248	7253
D-56	Sample page from diary	7253	7254
D-56-A	English Translation of D-56	7253	7254
D-57	Sample of page from Requisition Book	7254	7257
D-57-A	English Translation of D-57	7254	7257
D-58) D-58-A)	Sample page from Journal	7257	7259
D-59) D-59-A)	Narcotic Inventory	7260	7260
D-60) D-60-A)	Inventory of Narcotics Used	7260	7261

CAMP DACHAU, GERMANY
26 November 1946

MORNING SESSION

(Thereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all the personnel of the court are present; all the personnel of the prosecution are present except Mr. Berkowitz and Mr. Pinter, who are absent on business for the prosecution; all the personnel of the defense are present except Mr. McKay, who is absent on business for the defense; all the accused are present except Oswald, Losch, Pens, Kisbusch, Ramsfeldt, Surst, and Lipinski, who are ill, and whose interests are being taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in this case, will they please leave the court room?

PRESIDENT: Mr. O'Connor.

MR. O'CONNOR: If it please the court, I request permission to take Kisbusch out.

PRESIDENT: Proceed. Doctor Wacker.

DOCTOR WACKER: The defense calls Reupsch to the stand in his own behalf.

PRESIDENT: Reupsch, the court understands that you desire to take the stand in your own behalf, is that correct?

ACCUSED REUPSCH: Yes.

PRESIDENT: Proceed, Doctor Wacker.

WALTER REUPSCH, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

What is your full name?

A Walter Otto Reupsch.

Q How old are you?

A Forty-one year, four months old.

Q Are you married?

A Yes.

Q Do you have any children?

A No.

Q Were you a member of the party?

A Yes, since May 1, 1937.

Q Were you a member of the SS?

A Of the allgemeine SS since May 1, 1943.

Q Where do you live?

A Eisenach, in Thuringia.

Q What is your civilian occupation?

A Druggist.

Q Are you on your own, or are you employed?

A I am an employee in the pharmacy business.

Q Did you have to take an examination to become a druggist?

A Yes, I studied for three years and took the poison examination in 1924, and took my final examination in 1928.

Q Were you a soldier in this war?

A Yes.

Q Since when?

A The 4th of January, 1940, I was drafted into the 11th Infantry Regiment. I stayed there until the beginning of March, 1940. The regiment was examined at that time as to whether it was capable of doing service in the field. Since I was not capable of doing front service because of bad feet and ulcers in the lower leg, I was classi-

A Walter Otto Raupach.

Q How old are you?

A Forty-one year, four months old.

Q Are you married?

A Yes.

Q Do you have any children?

A No.

Q Were you a member of the party?

A Yes, since May 1, 1937.

Q Were you a member of the SS?

A Of the allgemeine SS since May 1, 1943.

Q Where do you live?

A Eisenach, in Thuringia.

Q What is your civilian occupation?

A Druggist.

Q Are you on your own, or are you employed?

A I am an employee in the pharmacy business.

Q Did you have to take an examination to become a druggist?

A Yes, I studied for three years and took the poison examination in 1924, and took my final examination in 1928.

Q Were you a soldier in this war?

A Yes.

Q Since when?

A The 4th of January, 1940, I was drafted into the 11th Infantry Regiment. I stayed there until the beginning of March, 1940. The regiment was examined at that time as to whether it was capable of doing service in the field. Since I was not capable of doing front service because of bad feet and ulcers in the lower leg, I was classi-

fied as being capable of doing garrison duty and was sent to Oranienburg.

Q How long did you stay in the Army?

A Until the 14th of October, 1940. I was released then. I returned to Erfurt to my civilian profession.

Q Were you again drafted later on?

A Yes.

Q When?

A The 20th of January, 1941.

Q To which unit?

A The guard battalion, Flossenburg, and I was used as a clerk with the second company.

Q How long did you stay there?

A Until the sixth day of the sixth month, 1942.

Q Where did you go then?

A I was then sent to the guard battalion in Buchenwald and used in the personnel section of the camp.

Q How long did you stay there?

A Until the end of May, 1943.

Q Where did you go then?

A I was again sent to Flossenburg and I was used in the pharmacy.

Q Why were you sent to the pharmacy?

A Because of a transfer order which came from the chief of section in Oranienburg, I was sent to the medical battalion Stettin, and then was retransferred to Flossenburg.

Q Did you volunteer for service in a concentration camp?

A No, I was drafted by order of the district drafting office in Eisenach.

Q When you came to Flossenburg for the second time, how long did you stay?

A Until the camp was deactivated the 20th of April, 1945.

Q What rank did you hold when you came to Flossenburg the second time?

A SS sergeant.

Q What job did you perform in Flossenburg?

A I was used in the pharmacy. I was in charge of the pharmacy.

Q Who else worked in the pharmacy?

A Two prisoners worked in the pharmacy, one pharmacist and one druggist.

Q Who was the pharmacist?

A It was Lavitschka.

Q Was he a German?

A A Slovenian.

Q Did he take any examinations as pharmacist?

A Yes, he took the examination in pharmacy.

Q Who was the doctor in charge at that time at Flossenburg?

A SS major, Doctor Gehnabel.

Q From whom did you take over the pharmacy?

A From the former pharmacist, SS 2nd Lieutenant Schnack.

Q What was the procedure when you took the pharmacy over?

A Because of the file cards that were there, a comparison of the supplies was made and I took charge.

Q You speak about file cards. Please tell the court what you mean by that?

A There was a file card in the pharmacy for each article there, and this file card would show the exact supply.

DOCTOR WACKER: I hand you the sample of the file card and ask that it be marked for identification.

(The document referred to, being a sample file card, was marked Defense EXHIBIT NO. 54 and the English translation thereof Defense EXHIBIT NO. 54-a, for identification.)

QUESTIONS BY DOCTOR [illegible]:

Q I show you a document. The heading of it is "Sample of a File Card", and I ask you what it is?

A That is a file card as was used for each article in the pharmacy of Flossenburg.

Q Did you draw up this sample of file card?

A Yes.

Q How did you draw up this file card?

A According to my knowledge and my memory, as I remember the file cards to have been.

Q Where are the original file cards?

A All records of the pharmacy, such as file cards, the requests for medicaments, et cetera, were left behind in the pharmacy. They were not destroyed, and as was stated at the beginning of the trial, all records are in the hands of the Americans, and I have to assume that alongside of the records of the SS hospital, the records of the pharmacy are also in the American hands.

Q Were you shown the originals after you had been arrested?

A No.

Q Please describe to the court briefly what you can see on this sample of file card.

A You can see on the file card for which article it is meant.

Q Did you keep such a file card for each article in the pharmacy?

A Yes, for each article. There were about 900 there.

(Resumed-direct)

Q What can you take from this file card?

A You can take from this file card the exact date of the arrival of supplies, when it was issued, and to whom it was issued.

Q Can you also determine from this file card the amount that was in the pharmacy?

A Yes, from the last number that is in each column.

Q I am talking about the column which has the heading "rest". Could you determine in the pharmacy the amount of each article available at any time?

A Yes, there was a possibility each day or hour, because you had to take out the file card and compare it.

Q Were any checks made?

A Yes, by the garrison doctors. It was their duty.

DOCTOR MACHER: I now offer into evidence Defense Exhibits D-54 and D-54A.

PRESIDENT: Is there any objection on the part of the prosecution?

PROSECUTION: No, sir.

PRESIDENT: Subject to objection by any member of the court, the court will receive in evidence Defense Exhibits Nos. D-54 and D-54A, and will give them such weight as the court sees fit.

(The documents heretofore marked Defense Exhibits Nos. D-54 and D-54A for identification were received in evidence as Defense Exhibits D-54 and D-54A, are attached hereto, and made a part of the record.)

MR. HAIL: Will the reporter please mark this document, purporting to be a sample Certificate of Receipt and Issue as Defense Exhibit No. 55 for identification, and this document, purporting to be the English translation, Defense Exhibit No. 55-A, consisting of

(Neupsch-direct)

two typewritten pages.

(The documents referred to were marked Defense EXHIBITS NOS. 55 and 55-A for identification.)

QUESTIONS BY DOCTOR SACKER:

Mr. Reupsch, I hand you another document that has been identified as Exhibit No. 55, and I ask you what it is?

A That is a sample of a certificate of receipt made out in the pharmacy, and they were sent to Berlin.

Q What was the purpose of such a receipt?

A Because of this receipt, medicaments were ordered.

Who ordered these medicaments?

A The garrison doctor.

What did you have to do with it, as pharmacist?

A I took an inventory with the prisoners who worked in the pharmacy, the prisoners working with the file cards there in the pharmacy, and I made out these certificates. Before these certificates were written, we wrote down what was needed and then gave it to the garrison doctor for approval. Upon this opportunity, we would talk over whether any of the requisition of medicaments were of necessity, or how much we had to get of them, and then I would get my notice back so I could make up this certificate. Then these were sent to the garrison doctor for signature and I didn't see them again until they came back from Berlin.

DOCTOR SACKER: I offer into evidence this sample of certificate, marked Defense Exhibit No. 55, and the English translation, marked Defense Exhibit No. 55-A.

PROSECUTION: May it please the court, I object to the admission of this document into evidence on the ground that the matter

contained under "remarks" and "quantity delivered" is immaterial and irrelevant and it would be just as improper as if I had offered the same in evidence with the remark, "sold to the Pharmacist in Leiden or disposed of on the black market among the prisoners."

MR. HALL: If the court please, these documents are not offered as proof of the fact that these particular entries were actually made, but merely as a sample to show to the court the system that was used in operating the pharmacy.

PROSECUTION: I imagine, may it please the court, that if we had offered that to the court with the remarks that these drugs had been disposed of by selling them to the druggist in Leiden, or by selling them on the black market, they would yell like a stuck pig. I think the shoe is on the other foot. They are self-serving.

MR. HALL: They are not self-serving if they show the system being used in the operation of the pharmacy. The remarks are not made to establish the proof of the fact that is contained in the remarks, but merely to show the system used.

DOCTOR WACKER: These remarks can be removed at any time.

PRESIDENT: The court understands, Mr. Prosecutor, that you are basing your objections on the columns "quantity delivered" and "remarks". That does not refer to the remarks that follow?

PROSECUTION: The whole tenor of that section all is of the type that I have stated to the court in my objection. In other words, No. 7. That is a nipay dipay on the part of somebody. There is no proof of that.

MR. HALL: If the court please, I wish to emphasize again that we are merely proving the system.

(Deupsch-direct)

PROSECUTION: I object to that, sir. I have cited as an example how they would scream if we tried to prove a system that way. There is a proper way of proving a system.

DOCTOR MACKER: I have no objection to these remarks being stricken.

PRESIDENT: The court understands, Doctor Macker, that Defense Exhibits L-55 and L-55A are purely samples drawn up from memory without any basis of actual fact?

DOCTOR MACKER: May I ask Deupsch a few questions before this point is decided on?

PRESIDENT: Proceed, but make it short.

QUESTIONS BY DOCTOR MACKER:

Q How did you draw up these samples — the first one and this one we have offered to the court, as exhibits?

A According to my memory, as things had returned from Berlin.

Q Are these remarks as you put them there an intention of yours to show how the records should have been, or did you want to describe actual facts?

A The presented sample is a sample of the record as I received it from Berlin. In the column "remarks" you find the remarks as they were put in there in Berlin, the seals as they were put in in Oranienburg or Berlin, are also shown.

Q You misunderstood me. Are these just to show the system under which it was handled, or are they actual facts?

A These are only samples. These are facts as Berlin put them down.

Q Do you remember each individual case as it was entered in these lists?

(Deupsch-direct)

A Yes. Those are only samples.

Q That is just it. Do you want to state whether those are correct, or whether those are facts as you drew them up?

A No, those articles have been shown arbitrarily.

PRESIDENT: Mr. Prosecuter, the court understands that in addition to the column listed as "quantity delivered" and the column, "Remarks", you have objected to remarks under paragraph 7, particularly?

PROSECUTION: Yes, sir.

PRESIDENT: Paragraph 7 under explanations?

PROSECUTION: Yes, also No. 9.

DOCTOR SACKER: I am satisfied that No. 7 and No. 9 be stricken.

PRESIDENT: Does that meet with your approval?

PROSECUTION: Yes, sir, with respect to "quantity delivered", the writing that appears there may belong under "remarks", and the explanation given down below. At least I would think it would. Only the quantity delivered should belong there. Due to the title, those remarks belong in the last column. In other words, I have no objection to 10/100, 8/100, 450, or 8000 remaining there, but I do object to the repeat requisition, and also to paragraphs 7 and 9 under explanations.

PRESIDENT: Doctor Sacker, the court will give you an opportunity to make any changes necessary in order to meet the objections of the prosecution. You will have an opportunity later on to admit Defense Exhibits N-55 and N-556 to the court.

MR. POLL: I believe there has been an offer made. Has the offer been rejected?

PRESIDENT: Yes.

(Neupach-direct)

DOCTOR WACKER: I ask that paragraphs 7 and 9 be crossed out, and offer with these corrections Defense Exhibits No. 55 and 55-A into evidence, including the remarks.

PROSECUTION: No objection to the exhibit, as amended.

PRESIDENT: Subject to objection by any member of the court, the court will receive Defense Exhibits D-55 and D-55A, as amended, and give those exhibits such weight as the court sees fit.

(The documents heretofore marked Defense Exhibits Nos. D-55 and D-55A for identification were received in evidence, are attached hereto, and made a part of the record.)

DOCTOR WACKER: I would like to offer this document for identification, the same purporting to be a sample page from the diary, and the English translation thereof, consisting of one typewritten page in English.

(The document referred to was marked Defense EXHIBIT NO. 56, and the English translation thereof Defense EXHIBIT NO. 56-A for identification.)

QUESTIONS BY DOCTOR WACKER:

Q Mr. Neupsch, I hand you a document which has been identified as Defense Exhibit No. 56, and ask what it is?

A That is a sample of a page from a diary kept in the pharmacy of Flossenburg.

Q Who kept this diary?

A I and the pharmacist who was working in the pharmacy. It all depended who was present when an article was handed in.

Q What can you see from this diary?

A Which department requested something, and what they requested.

Q Please explain that about the departments.

A This diary was kept for any issues which were not concerned with the hospital.

DOCTOR WACKER: I offer Defense Exhibits Nos. 56 and 56-A into evidence.

PRESIDENT: Is there any objection on the part of the prose-

cution?

PROSECUTION: No objection.

PRESIDENT: Subject to objection by any member of the court, Defense Exhibits Nos. D-56 and D-56A will be received in evidence and given such weight as the court sees fit.

(The documents heretofore marked Defense EXHIBITS NOS. 56 and 56-A for identification were received in evidence, are attached hereto, and made a part of the record.)

DOCTOR RACKER: I should like to have these lists identified as Defense Exhibit No. 57, purporting to be a page from the requisition book of the ward, and Defense Exhibit No. 57-A, the English translation thereof.

(The documents referred to were marked Defense EXHIBITS NOS. D-57 and D-57A for identification.)

QUESTIONS BY DOCTOR RACKER:

Q Mr. Reupsch, I hand you a document which has been identified as Defense Exhibit No. 57, and ask you what it purports to be?

A That is a sample of a page from a requisition book of a ward as it looked after a requisition had been filled.

Q What purpose did the requisition book serve?

A All medicaments as they were needed in the wards were written down in the requisition book.

Please describe to the court what the procedure was when a ward wanted any kind of medicament from your pharmacy.

A Each ward had its own requisition book.

Q What do you mean, "each ward"?

A The prisoners' hospital, the tuberculosis station, the quarantine, the convalescent block, the SS dental clinic, prisoners' dental clinic, prisoners' hospital laboratory, operating room.

PRESIDENT: The court will take a half hour recess.

(Thereupon the court recessed at 1000 hours.)

(Whereupon the court recessed at 1035 hours.)

PRESIDENT: Court will come to order.

MAJOR GUMPERT: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Bernkopitz and Mr. Pirter, who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Col. Wilson, Mr. Wolfe, and Mr. O'Connor, who are absent on business of the accused; all the accused are present with the exception of Jewalt, Loach, Renz, Wirbusch, Ausfeldt, Surat and Lipinski, who are ill, Winkler who is in the bunker, and Blomberg who is in conference with counsel. The interests of those named accused who are absent are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of direct examination, Dr. Walker.

WALTER RUPSCH, an accused, resumed the stand and testified through an interpreter as follows:

DIRECT EXAMINATION

BY DR. WALKER:

Q. Mr. Rupsch, now and yesterday again you said in No. 57. Please tell us how that took place - when any ward needed for medicine from the drugstore.

A. Medicines would be sent for sick to physicians which had been asked for by the patient in question and then the boy would, to the office, and then it would be signed

(Continued)

by the prison camp doctor. Then I would get the book back from the garrison doctor into the pharmacy and fill out the orders.

Q In what condition did the book arrive back to you in the pharmacy, that is to say, what entries had been made?

A When I got the book back in the pharmacy, the first two columns had been filled out.

. What marks had been made there?

A The name of the article and the amount in which it had been requested, and in the third column the garrison doctor had made notes about the articles which were not necessary or which he had not approved.

Q What did you do then?

A Then I would enter the articles in the third column which the garrison doctor had approved and took care of the order, and I made a note in the last column where remarks are made if I had replaced an article which had been asked for with another article.

Q Was it in your power to give something else than what had been asked for?

A No, we would always discuss that with the doctor beforehand, if we gave one article in place of another which had been used up or Berlin had delivered medicines which we had not asked for. And in order that the hospital would be in the picture about what articles had been given, we would always make a remark about what medicines had been given in place of another one.

Q Did such a change have to be ordered by the doctor?

A Yes, we had already discussed that with the doctor beforehand, when Berlin sent us certain medicaments in place of others and we would know we could give these articles out.

Q What happened then in the pharmacy after you had gotten all these medicines together which had been asked for?

A The amount of medicines which were supposed to be given out would be entered in the card index file so the whole amount would rhyme and the book in which people had asked for these medicines would be fixed up and sent back to the hospital.

DR. WALKER: I now offer Exhibit No. 57 as evidence.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objection.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive in evidence Defense Exhibits 57 and 57 A. The court will give those exhibits such weight as it sees fit.

(Whereupon the documents heretofore marked Defense Exhibits 57 and 57 A were received in evidence, are attached hereto and made a part of the record.)

DR. WALKER: (to reporter) I hand you now a sample page from the book and ask you to identify it as Defense Exhibits 58 and 58 A respectively, purporting to be a sample page from the journal.

(Whereupon the documents referred to were marked Defense Exhibits 58 and 58 A for identification.)

(Neupsch-direct)

QUESTIONS BY DR. WECKER:

Q Mr. Reupsch, I hand you a document which has been identified as Defense Exhibit 58 and asked you what that purports to be?

A That is a page from the work book we carried in the pharmacy in Flossenburg.

Q Did you fix up the sample?

A Yes.

Q What kind of entries did you make? Are they actual facts, things which occurred or examples of what might have occured?

A Actual facts of things that occurred.

Q Did they actually occur or did you assume they occurred?

A They actually occurred.

Q Did you remember all the details here of all that actually happened?

A Yes.

Q Explain to the court what that actually represents.

A All prescriptions which were filled out in the pharmacy were registered there in this workbook and we used as a basis for that the prescriptions which the doctors had requested.

Q Did all the medicines have to entered into the card index files later on, all those medicines which were used to fill out these prescriptions?

A That was done by months, yes. That was done each month at the end of each month or the beginning of the next month because it wasn't worthwhile to pull out the

card index and enter every little tr'fle that was entered.

DR. WALKER: I beg the court to take this as evidence.

PROSECUTION: Sir, what is that number?

PRESIDENT: 58 and 58 A. Any objections?

PROSECUTION: No objections

PRESIDENT: Now, Reupsch, the court understands that Defense Exhibit 58 was compiled entirely from memory and not from any particular notes and without reference to any original documents, is that correct?

WITNESS: That was prepared on the basis of incidents which actually happened and on the basis of prescriptions which were actually turned into the pharmacy and filled.

PRESIDENT: But the document itself was compiled entirely from memory, is that the case?

WITNESS: Yes, because when I was in captivity I didn't have my prescriptions available. They all stayed back in the camp.

PRESIDENT: Further, Exhibit 58 was not based on any memoranda or notes in your possession?

WITNESS: No, not on the basis of notes which I had in my own possession.

PRESIDENT: Subject to the objection of any member of the court, Defense Exhibits 58 and 58 A will be received by the court in evidence and given such weight as the court sees fit.

(Thereupon the documents heretofore marked Defense Exhibits No. 58 and 58 A for identification were received in evidence, are attached hereto and made a part of the record.)

DR. WACKER: (to reporter) I hand you a document marked "narcotic inventory" and ask you to mark it for identification.

(Whereupon the documents referred to were marked Defense Exhibits No. 59 and 59 A for identification)

QUESTIONS BY DR. WACKER:

Q Mr. Reupsch, I hand you a document which has been identified as Defense Exhibit 59 and ask you what that purports to be?

A That is a sample of the narcotics inventory which was kept in the pharmacy in Flossenburg. This inventory was kept aside from the card index, and for this reason, whenever a narcotic was needed, the prescription as well as the narcotic inventory had to be presented to the doctor and if he approved it he would make a note in the narcotic inventory that it had been given out.

MR. HALL: Let the record show Elsbusch, Hussfeldt and Wurst have returned to the dock.

DR. WACKER: I now offer Exhibit No. 59 as material.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objection.

PRESIDENT: Subject to objection on the part of members of the court, the court will receive in evidence Defense Exhibits No. 59 and 59 A and give them such weight as the court sees fit.

(Whereupon the documents heretofore marked Defense Exhibits No. 59 and 59 A for identification were received in evidence, are attached hereto and made a part of the record.)

DR. WACKER: (to reporter) I now hand you another document and ask you to identify it as Exhibit No. 60. It bears the title "Inventory of Narcotics Used."

(Whereupon the document referred to was marked Defense Exhibits No. 60 and 60 A for identification.)

QUESTIONS BY DR. WACKER:

Q Mr. Reupsch, I now hand you another document which has been marked as Exhibit CO and ask you what that represents?

A That is a copy of the narcotic inventory consumption list which was sent to Berlin twice a year and you can tell by looking at this exactly what narcotics had been used in the period of half a year; the total number of narcotics which are designated in the last column had to agree with the total number of narcotics in the inventory and also in the card index files.

DR. WACKER: I offer this document now as evidence.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objection.

PRESIDENT: Subject to objection on the part of any members of the court, the court will receive in evidence Defense Exhibits No. 60 and 60 A. The court will give these exhibits such weight as it sees fit. Proceed, Doctor.

(Whereupon the documents heretofore referred to as Defense Exhibits 60 and 60 A were received in evidence, are attached hereto and made a part of the record.)

QUESTIONS BY DR. WACKER:

Q Where were the card index files or books kept in the pharmacy?

A There was a delivery and send-off book which was kept in the pharmacy and all things which were given in the mail were recorded there.

Q What was the purpose, the meaning, of keeping these lists and these index files?

A At any time we could tell what medicines had arrived from Berlin by looking at these lists and card index files. You could tell just what medicines had been released.

PRESIDENT: Just a minute. Is that "arrived in Berlin" or "from Berlin"?

INTERPRETER: From Berlin

WITNESS: So that it was possible to make a check at any time in regard to the amount of medicines at hand in the pharmacy. Each medicine had to be recorded in a list at the pharmacy. It didn't matter what kind of medicine it was.

QUESTIONS BY DR. WACKER:

Q Were these lists checked to see whether they were correct?

A Yes.

Q How often?

A At irregular periods of time. The garrison doctor would appear at the pharmacy unexpectedly at any given time and take a list in his hand and check it to see whether the medicines on this list were actually in the pharmacy.

Q Please give us the names of those people who made these checks when you were there.

A Dr. Schnabel and later, Dr. Fischer. They were both garrison doctors.

Q What was the result of these checks?

A Nobody complained. Dr. Fischer himself liked to make these checks because I would be off to Berlin a number of days each month and I didn't have any chance to make any corrections and fix the records up any way and whenever he looked at the record he knew they were actual facts.

Q You said that you were in Berlin on numerous occasions. What did you do in Berlin?

(Reupsch-direct)

A Every month I would go regularly to Berlin and pick up the medicines which had been made there and which we were supposed to have.

Q Why didn't they send them to you by mail?

A Because there were so many of them you would need a freight car to bring them.

Q Did you travel with a freight car yourself to Flossenburg?

A Yes, I would accompany this freight car from Berlin when they first loaded on until they ended up in Flossenburg.

Q Please explain to the court what you had to do with issuing medicines to the various stations which requested them?

A I didn't actually issue medicines to the various wards. I would merely see to it that the orders were taken care of and the male nurses would come from the various wards and pick up the medicines in the pharmacy.

Q What kind of influence did you have in determining what kind of medicines would be issued?

A None at all.

Q Who made a decision about that?

A The doctors, because they knew what had to be used.

Q Didn't you have anything to say in regard to that?

A All I could do was to call the doctors' attention that we had received one medicine in place of another or if a special medicine had to be prepared, I would tell him about that or tell him such and such a medicine was missing.

(Neupach-direct)

These directives were not only discussed with the SS doctors but also with the prisoners' doctor because they also asked for medicines.

Q What did you need in order to dispense medicines from the pharmacy?

A I had to have a prescription or a direct order book.

Q For instance, could a male nurse from any ward come in and pick up medicines on his own?

A No.

Q What were the necessary conditions for him to get medicines?

A He had to have a prescription from the camp doctor. It would go from him to the garrison doctor, it would there be approved and come to me and I would fill the order.

Q What was the alcohol situation. Were there special regulations about that or not?

A Earlier, all alcohol was also recorded in these books.

Q What do you mean, "earlier"?

A From May 1943 to the end of September or beginning of October '43.

Q Why was that changed?

A As a result of the fact that the alcohol was primarily being used for matters that didn't concern medical matters at all and the fact that two non commissioned officers were busy doing black market deals with alcohol amongst themselves, the camp doctor and the garrison doctor took steps against that the end of September or the beginning of October 1943.

Q When you said "they took steps against that" what do you mean, what did they do?

A At that time I had to turn over all the prescription books and the card index files to Dr. Sohnebel, the garrison physician, and he was going to make a report about it to the commandant.

Q Did you have any trouble about that in the pharmacy?

A No, the prescriptions and the card index files in the pharmacy was checked as well as the amount of alcohol we had in the pharmacy and everything was in order.

Q In regard to alcohol, what other instructions were given?

A Alcohol could only be issued from that point on as a result of a special request and this was not recorded in the books.

Q Was it possible at that time to check the amount of alcohol there or not?

A It was always possible to check the amount of alcohol there in the pharmacy just as it was possible to check every other article there.

Q Was alcohol manufactured in the pharmacy?

A No, I had no apparatus to do that.

Q What kind of apparatus do you need to do that?

A A distilling apparatus.

Q Was there such an apparatus there?

A No.

Q Could you borrow such an apparatus anywhere?

A There wasn't any in the corp.

Q What I mean to say is, did anyone ever borrow such an apparatus?

A. Borrow? No.

Q. How was it with grape sugar?

A. Grape sugar was delivered from Berlin in small quantities which was used for preparation of small injections. It happened that sometimes the grape sugar would be crossed off the list of things that came from Berlin with the remark "this is not a medicine" and so as a result of that we wouldn't have any. But nevertheless, we always had enough grape sugar at our disposal to use for injections that were necessary, because the grape sugar which we needed for injections was manufactured by ourselves and so utilized by us.

Q. Were there any special instructions there in regard to grape sugar or was that like any other medicine?

A. The same instructions was valid for all medicines in regard to issuing them except alcohol.

Q. Did anyone ever make a complaint in regard to grape sugar, that it was missing?

A. No, if we ever ran short of grape sugar we would go and get some grape sugar from the public pharmacy in packages.

Q. Mr. Doupsch, I have to call your attention to the testimony of various witnesses here who testified against you. I believe that included Foltz and Dowal, and ask you now what you have to say against these reproaches?

A. Foltz approached me with the fact that I am supposed to have taken grape sugar and used it to make deals for food in the village.

Q. Did you do that?

A. No, I didn't need to do that because I had enough to eat.

Q What else do you have to say against the things that have been said against you?

A Goltz said that I had allowed alcohol to be made out of grape sugar. Grape sugar can't be used to ferment and for that reason you can't make alcohol from it. And Goltz maintained that he had to make a telephone call from the hospital to the pharmacy because certain articles hadn't been released from the pharmacy. He had called the SS hospital from his office and said that various articles had not been released from the pharmacy. The only cases that could be involved there would have to be cases where somebody came to the pharmacy and asked for articles without have a doctor's permission to get them.

Q What policy did you follow when someone came to you and asked for some article or other and didn't have a doctor's permission to have it?

A I would send a note to the doctor and the doctor from whom he was supposed to have had this article approved and I would ask the doctor to put it down in writing that this man was authorized to get this particular article.

Q Can you even remember refusing to dispense medicines even though the party in question had a doctor's authorization to get them?

A I never had any reason to keep any articles back if the party in question had a doctor's authorized prescription.

Q Do you remember the fact that was said that after the camp was evacuated a large quantity of medicine was found? What do you have to say about that?

A The last shipment of medicines from Berlin arrived the first day of April and within the first 20 days of April these articles, of course, were not consumed.

Q How long were those deliveries from Berlin supposed to last?

A Every month a delivery would arrive from Berlin.

Q Were there transport difficulties at that time?

A Yes, and for that reason the beginning of 1944 it was decided that whenever medicines had to be delivered someone would have to come and accompany the medicines back to the places they had to go to.

Q Did you ever have to consider the fact that a shipment did not arrive from Berlin?

A Yes.

Q What did you do?

A Well, we discussed these medicinal matters with the doctors and wherever one article was not needed it was used some other way.

Q When the camp was evacuated how much medicine did you have in stock. How long would that last?

A There was enough medicine to last until the end of May if no more new supplies arrived. And beside that you've got to take into account there weren't only the medicines which arrived in that shipment but also medicines which were left over from previous shipments.

Q If you had so much medicine why didn't you give more of it out?

A I only gave out what was necessary to be consumed.

Q Did you have anything to do in regard to the quantity of medicine that was issued?

PROSECUTION: I am going to object to counsel leading the witness. I have refrained from objecting for a long time. I think counsel should be cautioned to avoid repeating that.

PRESIDENT: Objection sustained.

DR. WACKER: I withdraw the question.

QUESTIONS BY DR. WACKER:

Q What influence did you have in regard to the quantity of medicines that was issued?

A None at all because I didn't know what illnesses was there and I didn't know what each individual patient required.

Q Do you remember that a witness said that in the pharmacy Schnapps had been made?

A Yes.

Q What do you say about that?

A I made that Schnapps for Mr. Fischer. I got the Kummel, the oil, the sugar and the necessary alcohol for this Schnapps. I got that all from Dr. Fischer and this Schnapps was not made in the pharmacy but in the kitchen of the SS hospital.

Q Were any medicines from the pharmacy used in the making of this Schnapps?

A No.

Q Do you know where Dr. Fischer got the ingredients for this Schnapps?

A Yes, he used for that Schnapps which he got, I don't know where he got it, and ordinary alcohol which he had bought in public pharmacy because the only amount of alcohol, pure alcohol which we had in the pharmacy would

be two or three liters a month and I needed that in filling out ordinary prescriptions.

Q Do you have anything else to tell the court?

A No.

DR. WACKER: I do not have any more questions.

MR. CONNOR: Let the record show the accused, Blomberg, has returned to the dock.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order. Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Mr. Reupsch, did you state that you had obtained a license to practise pharmacy?

A No, that was the reason why the beginning of May 1945 the prisoners' apothecary, Lavitschka, was transferred from Dachau to Flossenburg because the job of apothecary was not to be filled by a druggist but by an apothecary. When I came to Flossenburg I read this telegram myself.

Q Did you have any authority to prepare prescriptions?

A No, and I didn't fill any prescriptions either. The prisoners' pharmacist, Lavitschka, did that, and the garrison doctors especially called my attention to that fact that was none of my business.

Q What schooling have you had to equip you for the trade of a druggist?

A Three years apprenticeship and then, in the second year of my apprenticeship I visited a special school.

During my apprenticeship I had two years of specialist school and at the end of that I made this poison examination and in 1928, the assistant's examination.

Q What kind of examination was that you took?

A In 1924, the poison examination, and in 1928 the assistant's examination.

Q How many more examinations would you have had to have taken in order to become a licensed pharmacist?

A First of all I would have had to go to the middle school for nine years and I would have to take a final examination there and study about six semesters, and in between make a state examination and during the period of study you have to break it up and have actual experience in a pharmacy.

Q Do you actually had approximately what fractional part of the experience that a man must have in order to become a licensed pharmacist?

A Druggist?

Q Pharmacist.

A I mastered the latin nomenclature.

Q No. My question to you is this, Reubsch. You had what fractional portion of the experience that a man must have in order to become a licensed pharmacist?

A I didn't know that. I don't know how you can express the ability of a regular pharmacist in percentage.

Q Well, if it took nine years to become a licensed harmacist and you only had three years, that would be one-third, would it not?

A No, that's not the way it is.

Q Do you know what dextrose is?

A Yes.

Q Do you know what it is used for?

A That is taken through the mouth and it is also used for injection purposes.

Q For what purpose is it taken through the mouth or taken in injections?

A In order to help a sick person.

Q Do you know in what cases it would be used to help a sick person?

A No, I'm not a doctor.

Q And in all the experience that you had, both in Buchenwald and at Flossenburg and before you went to Buchenwald, you never learned that, is that correct?

A Learned what? How dextrose is supposed to be used?

Q Yes.

A No, all I know is that sick people get it but I don't know for what purpose and in Buchenwald I had nothing to do with dextrose. All I did there was take care of the personnel index card files.

Q Do you know what cardiazol is? Do you know what pantopol is? Do you know what formaldehyde is?

A Yes, I know what formaldehyde is.

Q You stated on your direct examination that the sample page of the journal which has been identified as Defense Exhibit 53 corresponded to the facts that took place. Is that correct?

A May I take a look at that sample page again.

(Whereupon Defense Exhibit No. 53 was handed to the witness)

A Can I ask you something, Mr. Prosecutor?

Q Can you answer the question I asked you first?

A You asked me whether that came from the journal I said, yes.

Q Do you know what it is used for?

A That is taken through the mouth and it is also used for injection purposes.

Q For what purpose is it taken through the mouth or taken in injections?

A In order to help a sick person.

Q Do you know in what cases it would be used to help a sick person?

A No, I'm not a doctor.

Q And in all the experience that you had, both in Buchenwald and at Flossenburg and before you went to Buchenwald, you never learned that, is that correct?

A Learned what? How dextrose is supposed to be used?

Q Yes.

A No, all I know is that sick people get it but I don't know for what purpose and in Buchenwald I had nothing to do with dextrose. All I did there was take care of the personnel index card files.

Q Do you know what cardiazol is? Do you know what pantopol is? Do you know what formaldehyde is?

A Yes, I know what formaldehyde is.

Q You stated on your direct examination that the sample page of the journal which has been identified as Defense Exhibit 58 corresponded to the facts that took place. Is that correct?

A May I take a look at that sample page again.

(Whereupon Defense Exhibit No. 5 was handed to the witness)

A Can I ask you something, Mr. Prosecutor?

Q Can you answer the question I asked you first?

A You asked me whether that came from the journal and I said, yes.

(Neumann- cross)

Q Now I also asked you whether or not the journal represented the factual situation that existed in Flossenburg with respect to the matter that is contained in the exhibit marked No. 58.

A Yes, those are prescri tions just as they occurred in Flossenburg.

Q Is that the only item on that page which corresponds to the facts as they existed in Flossenburg?

A No, that's the way the entire journal was kept.

Q On the first day of June 1944 was it current on 164?

A That was just made as a sample, I don't know whether this particular prescription had this particular number. I only thought of this as an example to show how the record was kept, but on the contrary, the prescriptions which are brought here actually occurred.

Q In other words, the only item on that page which actually corresponds to the facts of the matter is contained under the column marked "article", is that correct?

A No.

Q Well, what also corresponds to the actual facts?

A The column 3 and the column which is marked "kl" for concentration camp/SS, and the column marked "articles" and the column marked "quantity".

Q You certainly don't mean to tell this court, Mr. Reupsch, that on the second day of June 1944 the inmates' hospital received 5,0 folia digitalis titrata?

A This article folia digitalis titrata repeated itself two or three times a week. Whether that actually occurred on the 2nd of June I don't know that. That could also have been on the 3rd of 4th. I merely brought that as an

example to show how the record was kept and I wanted to show that in this book there were certain columns which showed when this article was manufactured and dispensed.

Q The point I am trying to get at is this. On Defense Exhibit No. 55 you do not mean to say that the prescriptions that were listed under "article" and the quantity that was listed under the heading "quantity" corresponds to the facts as they existed there in Flossenburg?

A The prescription is a fact because it corresponds to the regulations. Folia digitalis titrata is dissolved 1/200 % in 5% solution. It is 5 against 2000.

Q I am not trying to ascertain your erudition with respect to these particular prescritions here. I am merely asking you whether or not the amounts listed under "quantity" were also factual as well as the fact that they had such prescriptions as exist under the column marked "article" on Exhibit 55?

A Yes.

Q Did Flossenburg furnish the medical supplies for the outcamp of Leitmeritz?

A Partly, yes.

Q Hersbruck?

A Yes, also.

Q Zwickau?

A I can't tell you that because approximately one-half of the outcamps didn't draw medical supplies from us, they were independent. Because it was noted in the contracts of the outcamps that the party for whom they were working would place doctors at their disposal and also medicine. I only knew many of the outside work details by name.

Q What about Freia?

A Freia would draw from us and also buy things in Dresden.

Q What was the druggist's name in Weiden?

A Druggist?

Q Yes.

A I only knew of one drugstore there and the name of that is Schuster. I would get distilled water from him. I had a business connection with him.

Q I know that. What was the druggist's name in Floss?

A I don't know that. That was an old man. I know him by looking at him but I don't know his name.

Q Did you have a business connection with him, too?

A No, not personally.

Q How frequently were you in Weiden while you were stationed there at Flossenburg as the apothecary?

A Once a month, perhaps twice a month.

Q Well, was it any more than that, Reupsch?

A Not in a month, no. And usually I was in the Reserve Hospital in Weiden and then it is also possible that I took a sick person there to the hospital in Weiden with the ambulance and on that occasion I would visit the City of Weiden.

Q What was Schuster's first name?

A I don't know.

Q Approximately what was the average monthly quantity of medicines that would be sent to Flossenburg from Berlin?

A I can't go into detail about each particular article there. The order would consist of ten to twelve pages, perhaps three or four articles would be requested.

(Reupsch-cross)

Q I am talking about the size in quantity so far as bulk is concerned. Was it as much as a box car?

A Yes, it was loaded in a freight car, a box car.

Q Was the freight car full?

A That all depended on what articles were there. If there were 20 or 30 bales of bandaging material it would be filled up to the ceiling and on one month if that wasn't there, then the car would be only filled up halfway, perhaps.

Q Was it part of your duty to check the inventory on the medicines that were delivered there to Flossenburg?

A You mean checking the delivery with what had been ordered?

Q That is t exactly.

A Yes.

Q Did anybody supervise your checking of the stock that was received there at Flossenburg?

A Do you mean whether someone would check me after I had checked to see whether that is correct?

Q That is correct.

A Not when it was unpacked, no. The pharmacist was there for that purpose. The two of us would check to see whether it all corresponded.

Q In other words it was just you and the prisoner?

A Yes, at that moment when we unpacked the things.

Q After it had been unpacked and set up in its proper place you were the only one who checked it, is that right?

A Nobody needed to check it after it had been set up.

PRESIDENT: Court will adjourn until 1:30 this afternoon.

(Whereupon the court adjourned at 1200 hours.)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTOR: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter and Mr. Berkowitz, who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, who is absent on business of the accused; and all the accused are present with the exception of Neye, Winkler, Wussfeldt, Lesch, Oswalt, and Lipinski, who are ill and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination.

WALTER REUPSCH, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION CONTINUED

QUESTIONS BY PROSECUTOR:

Q. Reupsch, were the records that you described to the court all of the records that you kept in the apothecary at Flossenburg concerning the distribution of drugs?

A. Yes.

Q. You are absolutely positive about that?

A. Yes. We are talking about these documents in evidence?

Q. Yes. Were those documents all of the records that were kept in the apothecary at Flossenburg concerning the distribution of drugs?

A Yes, except for this freight or post book which we kept in regard to medicines which were given up in the mail.

Q And that's the only exception?

A Yes.

Q You kept no records then showing the receipts by persons who had received these drugs. Is that correct,

A No, because I personally had nothing to do with the patients.

Q No, I am not talking about the patients. I am talking about the persons who received the drugs from the pharmacy at the camp.

A This book served as a receipt and when the medicines were turned over that was given back.

Q Well, no one signed any documents stating what quantity of medical supplies he had received from you or from your office. Is that not correct?

A No, they had nothing to sign.

Q Now, the first work that you performed there in Flossenburg was that of a company clerk. Is that not correct?

A Yes, from January 1941 until the sixth of June 1942.

Q And it was after that that you went to Buchenwald and then came back to Flossenburg and became the pharmacist. Is that correct?

A Yes. At the end of May I became the director of the pharmacy. There is a difference between director of the pharmacy and pharmacist.

Q Well, as director of the pharmacy you had charge of the issuance of the drugs that were contained there in the pharmacy, did you not?

A Yes. I also had charge of these medicines which were issued upon a written prescription.

Q And you were the senior SS man in that particular department, were you not?

A No.

Q Well, who was superior to you in the pharmacy if that belonged to the SS?

A The garrison physician.

Q Well, he had charge of the apothecary along with the hospitals for the SS and for the prisoners, did he not?

A The whole medic department, Department 5, took its orders from the garrison doctor.

Q And he was your immediate superior, is that correct?

A Yes.

Q Now, it's not clear to me what regulations you stated covered the issuance of alcohol after October, 1943. Do you understand English?

A Yes.

Q Was there a record made of the alcohol that came into Flossenburg after October, 1943?

A Yes.

Q And was a record of its distribution kept in the same manner as the distribution of the other drugs after October, 1943?

A The file cards were kept just as before. The only difference was in the ordering of it.

Q The ordering of the alcohol then rested in your hands. Is that correct?

A No.

Q In whose hands was that?

A The doctor.

Q Now, you got grape sugar, did you not, in this batch of supplies that came in on the first of April?

A On the first of April, 1945?

Q 1945, yes.

A Yes, about 20 packages came along in that shipment.

Q And what was the contents of one of those packages please?

A Grape sugar.

Q In quantity?

A Two hundred and fifty grams. That is one individual package, not the whole cartonful.

Q So that you had 5,000 grams of grape sugar then that arrived from Berlin on the first of April, 1945?

A Yes.

Q And you also received dextrose in this supply of medicines that came from Berlin on the first of April, did you not?

A What do you mean by dextrose?

Q Do you know what dextrose is?

A When you say dextrose, you can understand by that grape sugar; you can also understand something in ampoules; and it can also refer to wares in bulk.

Q One is in liquid form and the other is in bulk, is it not?

A But a liquid is also in bulk.

Q Well, one is liquid and the other is not liquid. Is that correct?

A One is a liquid; the other is a fine powder.

Q Now, which one is the powder?

A Dextrose powder is pure dextrose which was delivered from Elsaburg from the Meissner Works. Dextrose pure - I am going to describe the difference between that and other kinds of dextrose.

DOCTOR WACKER: The witness said dextropur. That is its own particular name. The witness didn't say dextrose pure; he said dextropur, d-e-x-t-r-o-p-u-r. That is one word.

A (contd) Then there is grape sugar which bore the name saccharum amylaceum purissimum pulveratum.

Q Just tell the court please, Neupsch, how much of this dextrose, regardless of the form that it may have been in, you had on hand that came from Berlin on the first of April, 1945.

A Twenty packages of Dextropur. Each package contained 250 grams, 5,000 grams all in all.

Q And you had none in a liquid form. Is that correct?

A No, there wasn't any liquid with this powder. That was delivered by itself in ampoules - the liquid.

Q Now, during the months of October and November, 1944, you had a typhus epidemic at Flossenburg, did you not?

A Yes. It began in October '44.

Q And you had another one that began in January, 1945, did you not?

A I don't know when the one ended and the other began, or whether it was all one epidemic that went on uninterruptedly. That is more than I know. I only know that in January we also had typhus in the camp.

Q Well, you know, do you not, that during the months of March and April prisoners were dying like flies there in Flossenburg?

A I don't know that. I don't know the mortality rate.

Q Well, you knew that a lot of prisoners were dying, did you not, during March and April, 1945?

A I know that prisoners were dying, but I don't know how many.

Q Well, you knew that they were dying in larger quantities in April than they were dying in January, did you not - 1945?

A No, because I had nothing to do with the whole health situation and the reports on the mortality rate.

Q Well Doctor Schmitz came to you - you know Doctor Schmitz, do you not?

A Yes.

Q Doctor Schmitz came to you and asked for dextrose, did he not, in March and April of 1945?

A No, because in April '45 Doctor Schmitz was already lying in the hospital.

Q Well, in March he came there, did he not?

A Yes.

Q And he asked you for dextrose, did he not?

A Yes - what dextrose?

Q Any kind of dextrose.

A Yes, but Doctor Schmitz didn't come and ask it in person; he did it by means of the book with which these medicines were asked.

Q And you didn't give him any, either, did you?

A Doctor Schmitz didn't come and get it in person. The pharmacist sent it down to the hospital.

Q You didn't give any on the prescription that Doctor Schmitz asked for, did you, in the month of March, 1945?

A Whatever was asked for was given. It is also possible that such a case would occur that they would ask for 10, 20, or 30 bottles and we had only five or six bottles, and we gave them the five or six and said, "You will get the rest tomorrow after it has been freshly sterilized".

Q Let me ask you this. Did you or did you not refuse to give dextrose to Doctor Schmitz, either personally or someone authorized by him to obtain it, during the month of March, 1945?

DOCTOR WACKER: No. I heard the word personally and I ask that it be translated again.

(Thereupon the question was read by the reporter as follows:

"Q Let me ask you this. Did you or did you not refuse to give dextrose to Doctor Schmitz, either personally or someone authorized by him to obtain it, during the month of March, 1945?"

A No.

Q Did you fill all the requisitions that were sent to you by Doctor Schmitz during the month of March, 1945?

A All that were properly authorized and recorded in the books, yes.

Q And you determined who was the proper person to authorize the distribution of the medicines?

A Yes. First of all the camp doctor, Doctor Schmitz, had to sign them and then they would go to the garrison doctor.

Q Now, you testified on direct examination this morning, did you not, that you only gave out what was needed? Is that correct?

A Yes, what was recorded in the books was needed.

Q And you gave out always what was recorded in the books. Is that correct?

A It is possible that in place of one article another article would be delivered, e.g., in the place of eleudron they were given cibazol in its place. They were both sulpha drugs which served the same purpose and one would be delivered from Berlin in place of another.

Q Isn't it a fact, Neupsch, that during the months of March and April, 1945, you held back medicines in order to maintain a reserve there at Flensburg?

A No. Every four weeks we would get a new delivery. The last shipment came at the end of March and beginning of April, 1945,

and there were already 10 messengers underway who were supposed to pick up a new shipment.

Q Well then how do you explain, Reupsch, the presence of large quantities of dextrose and other drugs of similar nature in the pharmacy at the time of the evacuation of the camp when during the months of March and April, 1945, prisoners were dying at a terrific rate from emaciation and malnutrition, typhoid fever, and typhus fever?

MR. HALL: Just a moment. Objection on two grounds, if the court please: one is this witness has testified that he was not familiar with the mortality rate, as included in the prosecutor's question; secondly, this witness has talked about dextrose being in several forms and different kinds of it. I ask that the question specifically state what kind of dextrose the prosecutor is talking about. And there is a further objection that it calls for a conclusion as to the cause of death which this witness is not qualified to give.

PRESIDENT: Objection sustained.

PROSECUTION: Will you read the question.

(Whereupon the last question was read by the reporter.)

Q Reupsch, dextrose is a generic term, is it not?

A Yes, in the vernacular but when you use Latin nomenclature, you have to specify exactly what you mean.

Q I am not using Latin nomenclature. Grape sugar is a specific term, is it not?

A Yes, there are two kinds, powder form and liquid form for injection.

Q Now, Reupsch, how do you explain the presence of large quantities of dextrose in the pharmacy there at Flossenburg at the time of the evacuation when during the months of March and April

prisoners were dying at a high rate?

MR. HALL: I must object to the question again. The witness has not testified that prisoners were dying at a high rate, and I am sure he is not qualified to say.

MR. DENSON: I would like to be heard on that, may it please the court.

PRESIDENT: The objection of Mr. Hall is overruled, but there is a question in the minds of the court as to what you mean by dextrose, i.e., if you are referring to grape sugar in a liquid form or a solid form, or what.

MR. DENSON: Sir, what I had in mind was this. Dextrose is a generic term that covers all those forms; in other words, I was making the question broad enough to cover the liquid form and the powder form. There is some question sometime, as I recall, that grape sugar is referred to usually in powdered form and then when in liquid form it is called something else, and I was trying to use merely the generic term to cover that type of drug.

PRESIDENT: Proceed.

Q In how many forms did you have dextrose there in the pharmacy at the time of the evacuation?

A Two forms, liquid and powder, and the powder was in individual packages, dextropur and the grape sugar which had the Latin name which has already been mentioned.

Q All right, Leupsch, how do you explain to the court the presence of large quantities of dextrose in the pharmacy there at Flossenburg at the time of the evacuation, in both the powdered form and in the liquid form, when prisoners were dying at a high rate during the months of March and up during the first 20 days of April, 1945?

A At the beginning of the year transports kept arriving from camps from the East, and it was to be expected that more transports would arrive. If I am not mistaken at the beginning of February, the entire strength personnel of the camp and the outside camps amounted to about 30,000 - the main camp and the outside camps taken together - and in order to anticipate the fact that the mother camp and outside camps would have to take in a lot more prisoners, the ordering of the drugs was so fixed that there would be enough there for 55,000 to 60,000 prisoners, that is to say double the amount of men that were actually there. That delivery didn't arrive until the end of March and beginning of April because it took about eight weeks for it to be delivered and that explains the fact that on the twentieth of April, 1945, these medicines were present in greater quantities than they had formerly been present. There was always something there. The camp wasn't swept out as cleanly as a small room might be, because there was always something left over from the former quantities.

Q What quantity of dextrose in any form did you issue during the month of March, 1945?

A I can't tell you.

Q Well, you were able to tell the court prescriptions that you filled out on Defense Exhibit No. 58, even down to the quantities of that particular prescription.

A That is the quantity for one particular prescription that comes up and constantly repeats itself.

Q Well, what is your best judgment as to the quantity that was issued during the month of March, 1945?

A You can't say that any more today without looking at the documents because you have to reckon the outside camps in there, because you had four or five wards in the camp, in the mother camp, itself, which drew their grape sugar from us and besides that they had about 20 or 30 outside camps of 200 to 2,000 and they drew their work details from them.

Q Well, isn't it a fact that Doctor Schmitz in the month of March, 1945, tried to get dextrose for the prisoners of Blocks 17 and 18 and you claimed that there was a lack of those supplies?

A I don't know exactly what period of time in March is being referred to here. I know that from the fourth or sixth of March up until the sixteenth of March I was in Berlin for the last time getting typhus immunization drugs and other things for the prisoners, and as far as I remember it was around the eighteenth or twentieth of March that Doctor Schmitz did his last duty in the camp; so, practically speaking, in March I was only six or eight days together with Doctor Schmitz in the camp.

Q Well, during that six or eight day period is it not a fact that he came to you twice and asked for dextrose for the dying prisoners in Blocks 17 and 18 and you refused to give it to him?

A No. At that time the authoritative camp doctor was Doctor Adam, and all the regulations which were issued at that time, starting the first of January, were written by Doctor Adam because the garrison doctor refused to accept the books which Doctor Schmitz had sent to him. He refused to authorize them. He demanded that Doctor Adam sign them and in the quarter year before that Doctor Gieger did that, and the two SS doctors, Doctor Gieger and Doctor Adam, were the superiors of Doctor Schmitz in the camp because they were SS people and at that time Doctor Schmitz could not sign any

instructions. And Doctor Schmitz would have gone to Doctor Fischer at that time and complained to him about me and Doctor Fischer would have had me come to him and ask me what the situation was.

Q Well, isn't that just exactly what happened, Neupsch, that Doctor Schmitz did go to Doctor Fischer and finally get approval for some of this dextrose that you had refused previously to issue?

A I don't know.

Q That never happened?

A No.

Q What quantity of dextrose would you normally order each month?

A How much I ordered every month?

Q On the average, yes.

A That all depended. In 1943 it was less, and as the people in the camp increased it was more. There was a time when I only needed five packages a month and another time when I needed 20 packages a month for injection purpose. It all depended on the number of people who were sick. And then some months it would be 100 ampoules of grape sugar and some other months 300 ampoules of grape sugar were delivered and some months perhaps 1,000 would arrive. In these months when things were ordered without even looking at the special orders, you can't possibly decide just exactly how much was ordered in a month.

Q Well, you can't give the court then any idea of the consumption of dextrose during the months of February, March, and April, 1945. Is that correct?

A No, not for these three months. You can't ever give that in numbers, round numbers.

Q What was the solution, Reupsch, that was used on the 300 prisoners in September and October, 1944, in the injections?

A What prisoners?

Q The prisoners that were in Block 17 and 18.

A I don't know what they got because I don't even know what they were sick with.

Q Well, there were a number of prisoners that were killed in September and October of 1944 by injections, were there not?

A When?

Q September and October '44.

A I don't know anything about that.

MR. HALL: I object to the question as exceeding the scope of direct examination and furthermore calling for a conclusion which this witness is not qualified to give.

PRESIDENT: Objection sustained on the latter ground.

MR. HALL: I believe the court has already heard the answer and I change that to a motion to strike.

PRESIDENT: The motion to strike is sustained.

Q There were sick prisoners that occupied Blocks 17 and 18, were there not, during September and October, 1944?

A I don't know about 18; I know 16 and 17 were convalescent wards, but it was my opinion that 18 was a regular living block.

Q In 16 and 17 in October, 1944, there were about 300 prisoners that died there. Is that not a fact?

A I don't know.

Q You never heard about that?

A I heard that prisoners died, but who, where, and how many I didn't hear that.

Q You never heard about prisoners dying as a result of injections in Blocks 16 and 17 in September and October, 1944?

A No. I just heard about it for the first time.

Q Have you ever heard of any prisoners being killed at Flossenburg by heart injections?

A You mean directly in the heart?

Q Well, we will try that first, yes.

A No.

Q Not directly in the heart?

A I heard that people get injections to strengthen the heart. I know about that, but when I say that I am referring to injections which served the same purpose, such as cardiasol and sympatol, but they were given intravenously in the elbow.

Q And you never heard of prisoners receiving injections of benzine?

A What were they trying to do with that? What do they achieve by that? - so people burned up quicker when they reached the crematory?

Q Well, I imagine you know more about that than I do, Reupsch.

A I don't know what a benzine injection is supposed to mean. Benzine is no medicine.

Q You never heard of prisoners in Flossenburg receiving injections of benzine in the body?

A No, I would have had to find out about that from the prisoner druggist who slept back there in the hospital or from other prisoners or from the prisoners' doctors. They would have told me about it. But I don't mean to say that there wasn't any benzine back there in the camp; they had some in the hospital they used to wash out wounds with.

Q Did you ever hear of a prisoner dying from an injection of cyanic acid?

A You mean prussic acid, the way we say it in German?

Q I don't know what you call it in German. I am talking about an acid whose base is cyanide.

A Yes, the Germans call that prussic acid, and that is a colorless gas. If we let this gas rise and I breathe it, then I fall flat on my back and I be gone.

Q And what happens if you take an injection of the liquid into your body?

A Then the doctor will go to pieces who is doing it because this prussic acid is evanescent and if he takes a breath of it, he is done for.

Q Well, did you hear of any prisoners getting such injections in Flossenburg?

A No. No, looking at it from my standpoint they are technically impossible because I only know of prussic acid as a gas and not a liquid, because prussic acid is an element in evanescent form. It turns into a gas and it is immediately gone. Please check and see whether you have looked up this prussic acid correctly.

Q Well, you just answer my question.

A May I hear it again.

(Whereupon the question was read by the reporter.)

A We are now talking about this injection with this prussic acid. I never heard anything about that.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order. Continuation of cross-examination.

MR. HALL: Let the record show that the accused Neye has returned to the dock.

CROSS EXAMINATION CONTINUED

QUESTIONS BY THE PROSECUTION:

Q Did you have any compounds of cyanide in the pharmacy at Flossenburg?

A Yes.

Q They were under your custody, where they not?

A That was locked up in the poison chest, yes. That was already there in 1943 when I took over the pharmacy.

Q And you had the key to that chest, did you not?

A During the day that was in the pharmacy and the rest of the time it was either with the garrison physician or in the clerk's office of the garrison physician when I was not there.

Q And none of it went out of the office without your knowledge. Is that not correct?

A None of it was ever used. There were 200 or 220 grams there when I took over the pharmacy. On the twentieth of April, 1945, when I left, it was still there and I was amazed that there was potassium cyanide there at all in the pharmacy.

Q You checked it before you left on the twentieth of April. Is that correct?

A Yes, that was there when I left the pharmacy.

Q And you checked to see if it was there?

A Yes. Yes, it was in the poison closet there on the left-hand side on the first shelf behind two bottles, and in these bottles was liquor kalii aisenicosi.

Q And you also checked the quantity of dextrose that was there when you left on the twentieth of April, did you not?

A That was there.

Q You checked it, did you not?

A I don't know whether that was still there on the twentieth of April because on the eighteenth of April the medicines from the pharmacy were taken over to the prisoner hospital and that was there because the sick people were supposed to stay back and not take part in the evacuation and those medicines were needed to take care of them.

Q And how many packages were there on the eighteenth of April when you checked them?

A What kind of packages?

Q Dextrose.

A Twenty packages in the original carton just as they had been delivered from the Maisoner Works and the carton was still inclosed with two wire strands.

PROSECUTION: No further questions, sir.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR PACKER:

Q You were asked about your connection with the distribution of drugs. I ask you now whether you have anything to say about the quantity in which they were distributed?

A I didn't have anything to do about the quantity of distribution; that was prescribed, what I was supposed to turn over.

Q What did you have to do with the distribution of grape sugar?

A Nothing, i.e., I had nothing to do with distributing it direct to the patients; I only gave it out upon receipt of these order books.

Q Did you ever refuse to hand over any grape sugar?

A If anyone came and asked for grape sugar and didn't have the proper authorization to get it, I would send him away and tell him to get the proper authorization. Such cases might have occurred and such cases did occur.

Q And when somebody came and showed you a properly authorized prescription, what did you do then?

A Then the thing was turned over to him.

Q I want to talk now about how the medicines arrived from Berlin. Did you have to do with the unloading of the medicines?

PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection sustained.

Q What did you have to do with the transporting of the medicines from Berlin to Flossenburg?

A I saw to it that the railroad car came as quickly as possible to Flossenburg from Berlin and after the railroad car had arrived at Flossenburg I would personally stay there until the last tiny piece had been unloaded. Then, the things were brought into the camp and there quantity and number would be compared with the order which had been sent to Berlin. Then, they were all packed away and everything was recorded in the respective card index files.

Q What kind of order paper was that from Berlin that you just mentioned?

A That was such a document as already is in evidence here, a delivery paper with a notation on the border such as I had sent to Berlin eight weeks before and received back again.

Q Did you bring these lists back with you from Berlin?

(Reupsch-Redirect)

A Yes, if I were there myself I would personally bring it back with me, and on the basis of this paper if I was in Berlin I would personally supervise the loading of the medicines so that nothing would go wrong there.

Q And what happened to this list after you had unloaded the medicines in your own pharmacy?

A One copy would be signed to show that the amount of medicines was all right and that was sent back to Berlin; and the other copy would be locked up in or pasted into a folder after all the articles had been recorded in the card index files.

Q What was the purpose of this procedure?

A So that you could determine exactly how many medicines came from Berlin in one given month, and so that you could determine at any given time how much was available.

Q Did you ever have a chance to divert any of these medicines for your own purposes after they had arrived in the pharmacy or when they were en route from Berlin?

PROSECUTION: Now, I object to counsel leading the witness, may it please the court.

PRESIDENT: Objection sustained. Doctor, you will have to endeavor to avoid leading questions.

Q How did the orders which came from outside camps get taken care of?

A The out camps would turn them in in writing and the mail would come to the clerk's office of the garrison doctor and from there the orders would personally go into the hands of the garrison doctor and then I would get them in the pharmacy after the garrison doctor had approved them or not approved them, or made

certain alterations in them. Then the shipment would be brought in order, would be packed, and would be sent on either by messenger or by ordinary mail or by special messenger.

Q Did you ever make medicines in your pharmacy yourself?

A Yes, because there were certain medicines which we would not receive in quantities in which we needed them, such as cough syrup and iron tinctures, and these prescriptions I would get either from Doctor Schmitz personally or from the German Pharmaceutical Encyclopedia, Volume 6, or the Handbook of Hager, or according to the regulations of Stada - that is the national organization of German pharmacists - and those prescriptions were filled by the prisoner pharmacist Lavitschka because he was a specialist in that, and it was forbidden for me personally to fill a prescription.

Q Where did you get the raw ingredients for such a prescription for filling it?

A Either these ingredients were ordered each month from the central medic camp in Berlin or they were bought in public pharmacies.

Q For example, where would you buy that?

A That varied; for instance, the outside camps were distributed around in various communities and to each one would be assigned a medic and these people would get orders from us that such and such a thing was needed in our pharmacy and they would go buy it at Meiden or at Zwickau, Ulte, or Falkenau, and they would send these raw ingredients back to us to our pharmacy where we would make our medicine out of them.

Q Did you buy anything from this Mr. Schuster who was mentioned this morning?

A Yes, distilled water. I needed that in order to make injection solutions. When I say injection solutions I understand by

that grape sugar injection, chlorcalcium, or calcium gluconicum solution.

DOCTOR WACKER: No more questions. Yes, one more question.

Q What business transactions did you have with Weiden, i.e., with the druggist in Weiden?

A As already mentioned we would buy distilled water. I believe the whole gallon would cost five or six marks; besides that I had nothing to do with the druggist Schuster.

PRESIDENT: Recess.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q No drugs could go out of that apothecary at Flensburg unless it had your approval. Is that not true?

A When you say drugs, do you mean medicinal plants?

Q Medicinal supplies.

A Nothing could go out without approval.

PROSECUTION: That's all, sir.

PRESIDENT: Doctor, go ahead.

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q In this connection what do you understand by the term approval?

A That the matter had been properly authorized and that the garrison doctor had signed the order so that I was authorized to turn it out, to give it out.

PRESIDENT: Questions by the court? Major Lanham.

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Do I understand that you were not authorized to let any

medical supplies or drugs go out of the dispensary without the approval of the garrison doctor?

A I was not authorized to give out anything unless I had the specific approval of the garrison doctor; on the contrary, I was constantly warned that I was to carry out his directive. Not even one pill was allowed to be given to a member of the SS who came from the SS hospital. We would have to ask the doctor whether we could turn those things over to him.

PRESIDENT: The court will take a half-hour recess.

(Thereupon the court recessed at 1500 hours.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Perkowitz and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense are present, with the exception of Colonel Wilson, who is absent on business of the accused; all the accused are present, with the exception of Ewalt and Losch, who are in the hospital, and Winkler, Lipinski and Hussfeldt, who are in the bunker. The interests of those named accused are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

WALTER REUPSCH, an accused, resumed the stand and testified further through an interpreter as follows:

EXAMINATION BY THE COURT (continued)

QUESTIONS BY COLONEL SKUFLVIG:

Q Reupsch, who was it that designated the quantities of supplies which you ordered from Berlin?

A I, myself, put together the quantities which were to be ordered, in cooperation with the prisoners who worked in the pharmacy, and I drew up a draft and I then gave this to the garrison doctor. I went by the quantities needed per month and also by the strength of the camp as it would be in the future. Then I was called to the garrison doctor, who talked it over with me and who had me explain several things to him again; then he handed me back the draft and I would type it.

Q Now, Reupsch, you previously testified that you only gave out supplies from the pharmacy after you had received an authorization from the garrison doctor or some other person in responsibility, and in answer to that question you stated that they constantly warned you not to give out supplies otherwise. Now, why did they have to constantly

warn you not to give out supplies?

A It was not a warning that I got all the time, but the garrison doctor merely told me that I was not to hand out any supplies without his permission. He told me that in accordance with his duty regulations which governed his actitities.

Q Had you ever done so?

A I did not issue anything without the permission of the doctor. I was not even allowed to hand out medicaments to the SS hospital without the permission of the doctor. The same rules governed this.

COLONEL SKUPLVIG: No further questions.

QUESTIONS BY LAW MEMBER:

Q You stated awhile ago, in answer to my question, that you could only pass out drugs on the authorization of the garrison physician. Did you fill all the garrison physicians' approved prescriptions as far as possible to do so?

A Yes.

Q Did you dispose of alcohol or any other drugs or bandages for your own personal use or benefit?

A How should I understand that?

Q Well, did you sell any for profit or did you drink the alcohol or give the alcohol away?

A No.

QUESTIONS BY PRESIDENT:

Q Did these requisitions have to be approved by the camp doctor as well as the garrison doctor?

A All requisitions had to be authorized. If it was for the camp hospital the camp doctors would authorize it and then send it up to the garrison doctor. If it was for the SS hospital only the garrison doctor would certify it.

PRESIDENT: Any further questions by members of the court?

(Recess-Court)

Apparently not. Redirect?

MR. WACKER: One more question.

REDIRECT EXAMINATION

QUESTIONS BY MR. WACKER:

Q Was the pharmacy of which you had charge only for the camp or did it also supply other points?

A For the camp and the other camps, not for private persons.

Q Under no circumstances for any person in Flossenburg?

A No, not from that pharmacy. In case of life danger the garrison doctor would take supplies from the SS hospital and give it to the patients in the village, but only under life danger.

Q Was your pharmacy connected with this in any way?

A No.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q What were the two names that must be on every requisition that was filled for the concentration camp from January 1, 1945 until the evacuation of the camp in April 1945?

A That goes for the issuing to the several different wards in the prisoners hospital.

Q Didn't you testify a moment ago that on drugs that were issued to the SS hospital only the camp doctor's signature was necessary?

A When issued to the SS hospital only the signature of the garrison doctor was required. For issue to the camp hospital the signature of the camp doctor and the garrison doctor was required.

Q All right, what two names had to be on the requisitions that were issued to the camp from January 1, 1945 until the evacuation of the camp in April '45?

A Dr. Adam, as camp doctor, and Dr. Fischer as garrison doctor?

(Leupach-Recross)

Q And that applied to Defense Exhibit No. 57?

A I should like to see that exhibit.

Q I hand you Defense Exhibit No. 57.

A Yes, the camp doctor signed here (indicating) and the garrison doctor would put his initials down here in the corner.

Q On the sample that you drew up of Defense Exhibit No. 57 you didn't make such an indication, did you?

A No, I did not put the initials down.

Q But you did put down the camp surgeon's signature, did you not?

A I only put the word "Signature" down.

Q For only one person.

A Yes.

Q In answer to Major Farnham's question you said that you filled the requisitions as far as was possible. Did you ever refuse to issue a requisition that had been properly signed when there were any of those supplies available in the apothecary from January 1, 1945 up until the evacuation in April 1945?

PRESIDENT: Just a minute, do you mean requisition or prescription?

PROSECUTION: Sir, actually I mean what went out from the apothecary to the camp. I will change that around because I think we have been using both of those terms—I am not sure.

MR. MCKAY: Better change the date too.

PROSECUTION: I will withdraw that question.

Q Did you ever fail to issue supplies on a proper order at a time when those supplies were present in the apothecary during the period of 1 January 1945 up to and including the date of the evacuation in April 1945?

A No.

PROSECUTION: That is all, sir.

(Teupsch-Recross)

EXAMINATION BY THE COURT

QUESTIONS BY MEMBER 7:

Q Were prisoner doctors on duty in any of the hospitals in the camp authorized to write out prescriptions?

A No, only the camp doctor in charge.

Q If that had taken place you would have failed to issue the necessary drugs indicated on that particular prescription, is that correct?

A I would not have issued the drugs; I would have referred the prisoners' doctor to the camp doctor and he, in turn, would have handed it over to the garrison doctor; but a case of that nature never occurred that a prison doctor handed in a requisition without the approval of another doctor.

QUESTIONS BY COLONEL SEELY:

Q Did you ever lose any of your alcohol or other drugs through theft?

A No, not in the pharmacy by theft.

Q Nothing ever went out of there except what was authorized to go out, is that true?

A Nothing else, only those things which had been permitted and authorized.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. MACHT: Nothing further.

PRESIDENT: Recross?

PROSECUTION: Just one question, may it please the court.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Where did Dr. Mar and Dr. Fischer live?

A Both in the SS hospital. Dr. Mar at the head wall right next to the SS hospital, and Dr. Fischer on the opposite side on the other head wall.

(Dr. Mar-Recross)

Q And were they always there in Flossenburg during the time that you were there?

A No, Dr. Adam only arrived in '45.

Q Well, from January 1, 1945 up until the time of the evacuation were they always present for duty at Flossenburg?

A That I can't say. I don't know whether one of them might have taken a tour of duty during the day or went on duty to Holdan. That could have happened, but I can't say when it was.

Q Well, what would happen if there was a need for this medicine and Dr. Adam or Dr. Fischer were not available at the time it was needed?

A Then the garrison doctor would designate another doctor who could authorize these things.

Q And if the garrison doctor were not present?

A If the garrison doctor was not present Dr. Adam's signature was sufficient.

Q And if neither of them were there?

A Then Dr. Schaitz would sign, but I emphasize that Dr. Schaitz was only allowed to sign in the absence of the other two doctors. Furthermore, the garrison doctor gave his permission to the first clerk, Master Sergeant Belger to put his initials on there. But they told me about it so that I knew exactly what was going on.

Q You mean you would be informed when these doctors left, is that correct?

A Yes, I knew that.

PROSECUTION: No further questions.

PRESIDENT: Defense have anything further?

Mr. MACKEY: Nothing further.

PRESIDENT: Now, Teupsch, the court will give you an opportunity to make an explanation or a statement to the court.

ACCUSED TEUPSCH: I do not have anything to add.

(Teupsch-cross)

PRESIDENT: The witness will be excused and will resume his position in the dock.

(Whereupon the accused Reupsch resumed his place in the dock.)

DR. WACKER: The defense calls as its next witness on behalf of Reupsch, SS Technical Sergeant Belger.

EDUARD KARL BELGER, called as a witness by the defense, being first duly sworn, testified through the interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Eduard Karl.

Q Last name.

A Belger.

Q How old are you?

A 37 years old.

Q Married?

A Yes.

Q Where do you reside?

A Bruchsal, near Karlsruhe.

Q What is your civilian occupation?

A Dentist.

Q And where are you at the present time?

A Dunker I.

Q Held by the Americans?

A Held by the Americans.

PRESIDENT: The court advises you that if you should be asked any question which might tend to incriminate you, that you have a right to ask the court to refrain from answering that particular question. Do you understand?

WITNESS: Yes.

PRESIDENT: Proceed, Dr. Wacker.

Q Mr. Belger, were you ever in Flossenburg?

A Yes.

Q From when till when?

A From the 15th of February 1940 until the 20th of April 1945.

Q In what capacity were you in Flossenburg?

A I was a clerk and medic in the troop hospital.

Q Were you a member of the SS?

A Yes.

Q What SS--the Waffen SS or the Allgemeine SS?

A Allgemeine SS and Waffen SS.

Q What rank did you hold?

A Tech Sergeant.

Q What was your job as medic and clerk in the troop hospital?

A I had all the sick records and I had to take care of the admissions to the hospital. Furthermore, I did my duty as a medical helper in the ambulance during the sick call hours.

Q Do you know anything about the pharmacy?

A Yes.

Q Who was in charge of the pharmacy in Flossenburg during the time that you were there from the 1st of January 1942 till the end--confine yourself to that period.

A At first Second Lieutenant Schmack and later on Sergeant Raupach.

Q Do you know Raupach?

A Yes.

Q Please point him out if you can recognize him.

A Thirty-eight.

DR. WACKER: The witness has pointed out Raupach as being No. 38.

Q Mr. Balger, please explain the procedure to the court which was used whenever a ward like the tuberculosis ward of the dental clinic requisitioned any medicaments from the pharmacy.

A It was customary that each ward had a requisitioning book for medicines. All medicines that had to be requisitioned were put down in

this book and this book was taken to the garrison doctor. He decided, in turn, whether the requisitioned medicaments should be issued at all or the quantity of those medicines that should be issued.

Q What did the garrison doctor do?

A The garrison doctor checked these books and crossed out medicaments, or he approved of them, and in case that certain medicines were not at hand any more he would write down any kind of substitute medicines.

Q And what happened to the book then?

A Then the book was given to the pharmacy.

Q Did the garrison doctor have to inform anyone about the approval?

A He had to sign. Nothing was to be issued without his signature.

Q What was the procedure in the pharmacy?

A The pharmacist would receive these books and he would check the books against his file cards, against the supplies he had at hand. Let's take, for instance, as an example aspirin. If a thousand aspirin were requisitioned he would pick up his file card and let's say he had twelve or fifteen hundred aspirins on the file card, then the requisition of one thousand aspirin was impossible to be carried out because there were other wards to be taken care of also.

(At this point Mr. Berkowitz entered the courtroom and took his place with the prosecution.)

Q Mr. Belger, I should not like to go into any special cases. Just explain to the court in any normal case and the procedure that would be followed.

A The pharmacist would receive the book; he would check his supplies with his pharmacist's help; they would get all the things ready, put the medicines in the containers, get the pills ready, and then, after everything was ready to be delivered, the wards would be informed about it.

Q Were any records kept in the pharmacy itself?

A Of course. Everything was put down exactly, written down

exactly in a file card system.

Q What was the purpose of this file card system?

A The purpose of this file card system was to check at any time how many supplies were at hand, how many had arrived, and how many had been issued to certain places.

Q Was the supply that was at the disposal of the pharmacy checked?

A Yes, they spot checked it. Unexpected spot checks were carried out in the pharmacy.

Q Who carried out these spot checks?

A The garrison doctor.

Q What did he do?

A The garrisin doctor would enter unexpectedly, would pick out any kind of file card, would then check the file card against the quantity at hand and check whether it was the same on the file card, whether the file card checked with the actual quantity.

Q Please explain to the court whether these checks gave reason for any reprimands or whether they were carried out and always found to be correct.

A So far as I know, there was no reason for reprimands.

Q Shortly before, you wanted to go into a special case whereby not enough medicaments were at hand. Will you now explain to the court how, in such a special case, the procedure would be followed.

A If a requisition was made which would cause the whole supply to be taken up by just one single ward then the pharmacist had to check and he also had to consider that there were other wards to be taken care of with the same medicaments.

Q What was the procedure in such a case?

A In such a case the pharmacist, if he knew what kind of medicine it was, would get in touch with the doctor, mostly Dr. Schmitz, and ask him whether it wasn't possible to replace this medicine with a similar

medicine filling the same purpose.

Q Was any medicine issued from the pharmacy without the permission, authorization, of the competent doctor?

A No.

PROSECUTION: I object to counsel leading the witness, may it please the court, and I also ask the witness to be cautioned not to answer the question until an opportunity be given to object. The witness has been answering the question even before the interpreter has a chance to translate the entire question.

PRESIDENT: The objection is sustained. Doctor, you must avoid leading questions. At the same time, interpreter, caution the witness that he will not answer until you have finished. (Whereupon the interpreter did as requested.) At the time you realize an objection is in the offing, just hold up your hand, interpreter, and stop him as you generally do. Proceed, Doctor.

Q Was there any special rule governing certain articles?

A Yes.

Q For what articles?

A Mainly for narcotics. Outside of that, for stimulants such as dextrose.

Q Please explain to the court which special rules applied so far as these articles were concerned.

A Narcotics, ampoules, each gram or each tablet was only issued against the signature of the doctor who planned to use it. Furthermore, the name of the patient had to appear, had to be written down for whom this narcotic was intended.

Q What rules applied to this dextrose, as you mentioned?

A The ration quantity of dextrose was very small, so far as I remember, while the necessity for dextrose was very large, so that the dextrose was only used as fluid to be injected.

Q Was there any apparatus in the pharmacy for distilling purposes?

A No, none in the whole hospital.

Q Was there any alcohol manufactured in the pharmacy?

A No, there was no possibility for that.

Q What rule applied to the alcohol?

A The regulations for alcohol were very strict, and not only the doctor in charge checked the alcohol and the quantities of alcohol on hand, but also the camp commander, and also they had the requisition books and their filing system to check the amount of alcohol.

Q How often did the pharmacy receive supplies?

A The pharmacy was supplied in normal times every four weeks.

Q From where?

A From the medical head office, Berlin.

Q Why did you say "in normal times"?

A Because by the destruction of the rail system an involuntary deferment was caused so that we received supplies in March that we should have received in January.

Q When did the pharmacy in Flossenburg receive its last supplies?

A About the end of March 1945.

Q And for how long did they figure on having those medicaments?

A Normally for four weeks. When we left Flossenburg the couriers were on the way to pick up new supplies.

Q How were the supplies when the camp was evacuated?

A There were quite a few supplies there and these were handed over to the prisoners' hospital when we left there.

Q If a requisition was sent to the pharmacy which had been duly authorized by the doctors, would this requisition be filled or not?

A Of course it would be filled. If it had been regularly signed by the doctor, it had to be carried out.

Q Are cases known to you when this was refused?

A No.

(Felmer-Direct)

DR. WACKER: No further questions.

PRESIDENT: Cross-examination?

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Where was your office located with respect to the pharmacy?

A In the same barracks, about fifteen meters apart from each other; about from there to here. (Indicating)

Q And you know personally that all the orders that were submitted to the pharmacy to be filled that were in proper form were filled, is that correct?

A Yes, otherwise they would have had complaints.

Q Well, isn't it a fact that you did have complaint from Dr. Schmitt?

A I don't know anything about that because in that case I wouldn't have had anything to do with it. That would go to the pharmacy directly but I would certainly have heard about it.

Q But it wasn't a part of your official duties to know whether or not any such dispute ever arose between the pharmacist and the doctor, is that correct?

A No.

Q And do you tell this court that you never heard of any difficulty that arose between the pharmacist and Dr. Schmitt while you were there at Flossenburg with respect to the issuance of supplies?

A Nothing of that sort is known to me.

Q And you would have heard about it if it had taken place, is that correct?

A Surely.

Q Now, you testified a moment ago that they would get in touch with Dr. Schmitt with respect to the changing of supplies when one supply was lacking, is that correct?

A That the pharmacist would go to him, not I.

Q Well, what was Dr. Schmitt's position at that time?

Ta 637 IF
11-26-46
page 14

A Camp doctor.

Q And during what period of time was he the camp doctor?

A He was camp doctor from the first or second of May 1944 until the late fall of 1944 when an SS doctor was put above him.

Q And he was the camp doctor during October and November 1944, is that correct?

A You will have to say second camp doctor.

Q Well, who was the first camp doctor in October-November 1944?

A Captain Adam.

Q When was it that Adam came to Flossenburg?

A I can't remember exactly, but it could have been the beginning or the end of October; I don't know exactly any more.

Q 1944?

A '44.

Q And was the pharmacist still honoring prescriptions signed by Dr. Schmitz in 1945?

MR. HALL: There is no testimony that the pharmacist has honored prescriptions or requisitions by Schmitz.

PRESIDENT: Objection overruled.

A I assume so.

Q Well, you knew what went on in the pharmacy, did you not?

A Partly.

Q Well, you knew when the prescriptions and requisitions were submitted to the pharmacy that they were always filled, did you not

A I know that for the simple reason that no complaints were filed and so I have to assume that everything went all right.

Q Then your testimony before this court is based on assumption, is that correct, and not on knowledge of the facts?

A I did not get the sense of that question.

Q Then your testimony before this court is based on assumption and not upon knowledge of the facts, is that not correct?

A No, because if a complaint would have been filed and I was sitting in the main office, in the clerk's office there, the garrison doctor would have certainly told me about it.

Q Well, did you know of every complaint that was filed there in Flossenburg?

A I can't know that.

Q Now, in all this system of filing that they had in the pharmacy, did you know that at no time was a receipt ever given for the medical supplies that were received by a ward or by individuals to the pharmacy?

A It is not know to me whether a receipt was ever given.

Q As a matter of fact, you don't know very much about the files in the pharmacy, do you?

A I only know about the file system that the filing cards were kept and I know just about what the different columns on those cards were.

Q And it is a fact, isn't it, that Rempsch, the pharmacist, had the discretion to decide whether a ward would receive a certain amount of supplies or another ward would receive an equivalent amount of supplies?

A No. I have to give an example there; other than that, I can't explain it.

Q Well, just answer my question, please.

DR. WACKER: He did that.

PROSECUTION: Well, all right, I am satisfied.

PRESIDENT: If he wants to make an explanation later on the defense will give him that opportunity.

Q Well, didn't you testify on direct examination that he had to consider when other wards would need supplies and one ward had requisitioned all the supplies?

A Of course, and that was ironed out in the presence of the garrison doctor.

(Belger-Cross)

Q And he would also exercise discretion as to whether or not supplies should be sent out if they were getting low in the pharmacy, would he not?

A That was not up to Reupsch; he didn't have any power of decision at all.

Q Where was your office located with respect to the garrison' doctor's?

A There was only one office there. The office of the garrison doctor was my office, and vice versa.

Q And you participated in all these conferences that Reupsch had with the garrison doctor, is that correct?

A No, but often the garrison doctor would have these people come into his private room where he also had a desk, but I also had to go there always for his signature.

Q As a matter of fact, the garrison doctor didn't bother very much about anything, did he?

A That is the peculiar thing about this garrison doctor. He didn't bother very little about other things; he had other things on his mind; but he worked under pressure from above so that he forbade us to give a simple tablet to a comrade of ours if he would come and have a headache, without asking his permission.

Q And he forbade the issuance of the supplies to the doctors, is that correct?

A How should I understand that?

Q Did you understand the words that you heard?

A Yes, I heard your words.

Q All right, what did they mean to you?

A How do you mean that—supplies privately to the doctor, or supplies that had been requisitioned by the doctor for the ward?

Q Did you know what supplies there were available in the pharmacy

on the evacuation of the camp?

A No, there were hundreds of articles, how should I know them? For one thing I am not a pharmacist.

Q Do you know whether or not they were well supplied?

A There was quite a bit because the prisoners carried things out of there for hours. Everything that was in the warehouse was sent to the prisoners' camps so it wouldn't spoil.

Q Now, did I understand you to say that there was a large need for dextrose?

A A lot, but the supplies weren't large. I know that they would sent maybe eight packages a month, sometimes maybe ten, maybe fifteen packages a month, but packages are only this large (indicating) or very small.

Q So that there was a need of dextrose there, is that correct?

A Dextrose was needed.

Q Don't you know that at the time that the camp was evacuated that there was sufficient dextrose there to last until the 20th of the following month?

MR. WALL: I object to that question. There is no showing that this witness is qualified to determine the amount of dextrose that is necessary to last until the succeeding month.

PROSECUTION: I would like to be heard on that, if it please the court. He was in the chain of command that drew up these requisitions, and the supplies that were asked for from Berlin, and as I understand his testimony, and the testimony of the former witness, it went through him to the garrison doctor, and if anybody would know about the condition of the supplies there this man would. This is not a question, may it please the court, requiring a medical knowledge, it is a question based on supply and demand that they have had there and computations they have made. Now, it has been testified by the former

witness that they would consider the total strength of the camp and other factors in determining what would be in the requisition.

MR. WALL: If the court please, if this witness can state or testify as to the actual amount on hand, I have no objection to that, but for him to state that that particular amount is sufficient to last for any particular period of time certainly does involve medical knowledge. I don't believe there is any qualification of this witness to determine how much dextrose any individual should have.

PRESIDENT: Repeat the question, please.

(Whereupon the reporter read the question as follows:

"Don't you know that at the time that the camp was evacuated that there was sufficient dextrose there to last until the 20th of the following month?"

PRESIDENT: Objection sustained.

Q Don't you know, as a matter of fact, Belger, that at the time of the evacuation of the camp it had been calculated that the dextrose on hand would last until the 20th of the following month?

A That is not known to me; I did not know anything about the amount of supplies on hand in the pharmacy and I never read the requisitions made by the eight outcamps whenever they came in; it was not my job. I just merely handed them over for signatures.

Q The requisitions went through you, did they not, to the garrison doctors?

A Partly.

Q And you had the authority to sign the garrison doctor's name, did you not?

A That would have been forgery. Nothing of that sort existed. No one signed but the doctor himself.

Q You are sure about that?

A Oh, yes.

Q Could you know more about that, or Reupsch?

A About what?

Q Signing the garrison doctor's name on requisitions.

A We both have to know that.

Q So you never signed the garrison doctor's name, then, in the absence of the garrison doctor, is that correct?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

MR. HACKER: No further questions.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL SKINLVIG:

Q Belger, did you ever know a man named Max Tenzl?

A Yes.

Q What relations did you have with him, if any?

A I was a very good friend of his. He was a medical helper and a sergeant.

Q How many months was he there while you were working in your position in the hospital office

A He arrived at the end of February or the beginning of March 1944.

Q Did he have anything to do with the drawing of supplies from the pharmacy?

A No.

Q What was his position?

A He was a medic in the prisoners' hospital and was a help to the camp doctor.

Q What was his status, was he SS, was he a prisoner, or what?

A No, he was an SS man.

Q And you don't know of any occasion of his ever having drawn any supplies from the pharmacy?

A It is possible that he did that at one time or other when he

just happened to be there and that he took along supplies which were ready for delivery.

Q Did he ever speak to you about Deupsch in any way?

A No, hardly.

QUESTIONS BY LAW MEMBER:

Q. Do you know whether or not the garrison doctor had to approve prescriptions drawn on the dispensary?

A In the troop dispensary?

Q Do you know whether or not the garrison doctor had to approve prescriptions drawn on the dispensary for prisoners?

A Medicaments drawn by the prisoners in the dispensary?

Q Well, there was only one dispensary, wasn't there?

A No, the prisoners had a dispensary and the troops had a dispensary. It was the room where people were examined. Evidently what you call dispensary we called hospital.

Q Well, I mean the place from where the medicines were drawn. There is only one place from which the medical supplies were drawn, is that correct?

A Yes, that was the pharmacy.

Q Now, suppose you wanted to draw some medicine from the pharmacy for an inmate, a prisoner, would the garrison doctor have to approve that prescription?

A Yes.

Q Did he sign his name or initial the prescription?

A No, "Dr. Fischer".

Q In his absence was anybody else authorized to act for him and sign a prescription?

A The camp doctor did it then.

Q Did you have any authority to act yourself

A No, because I did not have any medical training.

(Bolger-Court)

QUESTIONS BY PRESIDENT:

Q Do I understand you to mean that a prescription signed by the camp doctor would not be filled at the pharmacy without the signature in addition of the garrison doctor?

A Yes, the signature of the garrison doctor had to appear.

Q And that applied both to the camp hospital and the garrison hospital, is that the idea?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. WACKER: No further questions.

PRESIDENT: Prosecution?

PROSECUTION: No further questions.

PRESIDENT: The court understands the defense is finished with this witness?

MR. WACKER: Yes.

PRESIDENT: The witness is excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

PRESIDENT: Court will adjourn until 0900 hours tomorrow morning.

(Whereupon at 1645 hours the court adjourned until 0900 hours, 27 November 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary / *Intermediate Military Court to be held / *General

Die Verhandlung wird vor dem *Einfachen / *Mittleren Militärgerichte / *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

FLOSSENBURG

CASE RECORD.

Pages 7320 - 7389, Incl.

Case No. 1

Prosecutor

Defence Counsel

Interpreter

Reporter

*General

Place DACHAU, GERMANY

Date 27 November 1946

WITNESSES:

BETZ, Ludwig

ROLLER, Fritz

OHNWEILER, Kurt

SCHLUNDERMANN, Fritz

MULTHAUPT, Fritz

Accused FRIEDRICH BECKER, ET AL

Address	Sex	Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194 or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

In trial of

THE UNITED STATES VERSUS FRIEDRICH BECKER, ET AL

By

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

27 November 1946 . 0905 - 1500 Hours PAGES 7320 - 7389 Incl.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
BETT, Ludwig	7320	7325		7325	7325
ROILER, Fritz		7335 7337	7327 7338 7344 7345	~~7335~~ 7339 7345	7340
SCHNEIDER, Kurt	7347		7356		7354
			7357		7356
			7358		7358
SCHLUNDERMANN, Fritz	7360 7363	7368	7371	7379	7372
WULTHAUPT, Fritz	7382				

EXHIBITS

Number	Description	Marked	Offered in Evidence
D-61		7386	

AFTERNOON SESSION

(Thereupon the court reconvened at 0905 hours)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the members of the court are present; all the members of the prosecution are present with the exception of Col. Denson and Mr. Minter who are absent on business of the prosecution; all the members of the defense are present with the exception of Mr. McKay who is absent on business of the accused; all the accused are present with the exception of Oswalt, Losch, Habusch, Mussfeldt, Lipinski and Winkler who are ill and Mohr who is conferring with counsel. The interests of the absent accused are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave.

DR. WACKER: The defense calls as its next witness, Mr. Betz, on behalf of the accused, Sommerfeld. I have to question this witness out of turn because his wife is sick at home and he wants to depart.

LUDWIG BETZ, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Ludwig Betz.

Q Please spell your last name.

(Betz-direct)

A B-e-t-z.

Q How old are you?

43 years old.

Q Are you married?

A Yes.

Q Where do you live?

A In Stamsreid in Oberpfalz.

Q What is your profession?

A Baker master.

Q Do you know a 1st Lt. Sommerfeld?

A Yes.

Q Please look around and see if you can identify him and point him out.

A (indicating) yes, 47.

DR. WACKER: The witness has pointed out No. 47 as being Sommerfeld.

Q How did you get acquainted with Sommerfeld?

A I got acquainted with him on a Saturday before midnight, between 11 and 12 o'clock.

Q What day, what year?

A Saturday the 21st of April.

Q What year?

A 1945.

Q What was the occasion of your meeting?

A That was evidently in connection with billeting of the prisoners from Flossenburg.

Q Please explain to the court precisely how you met Sommerfeld.

(Batz-direct)

A I received orders the night of the 21st of April between 11 and 12 o'clock at night from Major Zwanziger who was the defender of Stamsreid, that I was to allow no one to stay around the street but had to send them all to the schoolhouse. At that time the man wouldn't go away and I, of course, had to open the door, that is to say, the shutters, and at that hour I was just counting my money.

Q To what man are you referring when you say "he didn't go away"?

A Sommerfeld.

Q Did he knock on your door that night between 11 and 12 o'clock?

A He knocked on my door.

Q What happened when you opened up?

A I led him to Major Zwanziger and there was a dispute. What they discussed I don't know.

Q How do you know it was the 21st of April 1945 between 11 and 12 o'clock?

A Because the Americans arrived on Monday the 23rd.

Q Are you certain about the time and date?

A I'm certain about it because Monday the 23rd the Americans arrived and that was on Saturday the 21st.

Q What did Sommerfeld do after you led him to Major Zwanziger?

A How do you mean that, what did he do? He talked to him and after that the Silesian family took him to them on the first floor.

(Betz-direct)

Q Did he stay there over night?

A He stayed there over night. The man killed himself there because he was wet through and through.

Q How do you know that?

A How do I know that? That's clear because I was standing at the door when the Silesian offered him a chair to stay there over night.

Q Do you know where the prisoners were?

A If that was the column of Sommerfeld then the prisoners were in the barn at Maier's place. He was a mason. It was the Neumburgerstrasse.

Q Did you see Sommerfeld the next day, that is, the 22nd of April 1945?

A Yes, that was in the morning between 7 and 8 o'clock.

Q By what opportunity did you see him there?

A Our store was open. We always have to keep our store open on Sundays because most of the population are farmers. My wife had a dispute with Sommerfeld. I don't know what it was all about.

Q Do you know when Sommerfeld left Starnfeld?

A I saw Sommerfeld on Monday, 8:30 or 9 o'clock, in the market square from there he marched off with his people.

Q What date was that?

A That was the 23rd of April.

Q Do you know how many prisoners Sommerfeld had with him on the market square?

A That I can't say exactly, gentlemen.

Q Estimate.

A That could have been 300, 400, I can't estimate that exactly.

Q What else unusual occurred on this 23rd of April 1945?

A About Sommerfeld or the general situation?

Q If you know anything about Sommerfeld then tell us that.

A I know that he departed to the side into the woods.

Q Did you again see Sommerfeld after he had departed?

A No.

Q What else happened on that day?

A The Americans marched in and there were lots of things to see.

Q Mr. Betz, what would you say if the witness who appeared here in the courtroom would have stated that on the date you stated, Sommerfeld had been in Neumburg?

MR. BERKOWITZ: If it please the court, I object to that type of question. We have had this raised before and the court has sustained it. This witness is asked to testify to what he saw and his comments as to what other witnesses said are entirely improper and irrelevant. Objection has been made to this type of question before and the court has sustained the objection.

DR. SCHER: I might not be informed quite well enough but in our German law it is this way. If one witness gives conflicting testimony, the other witness will be confronted with this testimony so he can take his position as far as this testimony is concerned. I myself am not interested to ask this question at all but I would be thankful if the court could clear that question on its own behalf. I withdraw my question.

(Betz-direct)

QUESTIONS BY DR. WACKER:

Q Mr. Betz, how far is Stamsreid from Neunburg?

A 15 kilometers.

DR. WACKER: No further questions.

PRESIDENT: Cross examination.

MR. BERKOWITZ: No questions.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY LT. COL. SKIELVIG:

Q Mr. Betz, where did this particular incident take place?

A In Stamsreid.

LT. COL. SKIELVIG: No further questions.

QUESTIONS BY PRESIDENT:

Q How do you spell that place?

A S-t-a-m-s-r-e-i-d.

QUESTIONS BY LT. COL. BURCHAM:

Q What direction is that from Neunburg?

A To the west of Neunburg.

QUESTIONS BY LAW MEMBER:

Q In which direction did Sommerfeld go? Did he go in the direction of Neunburg when he left your place?

A No, if I remember right, when he departed he went in an eastern direction.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

DR. WACKER: No further questions.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q When did you see him after 8 o'clock in the morning of the 22nd?

A In the 22nd after 8 o'clock, no place. That was a Sunday.

Q You didn't see him all day Sunday, did you?

A Not during the Sunday.

Q Next time you saw him was Monday on the market square?

A Monday in the market square.

MR. SIRKONITZ: No further questions.

PRESIDENT: Further questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COL. SORIEX:

Q I understood you to say that on Sunday morning the 22nd Sommerfeld had some argument with your wife, is that correct or not?

A Between 7 and 8 o'clock they debated, something evidently of no special interest, otherwise I would have heard about that.

Q Was that Sunday morning? The 22nd?

A That was Sunday morning, the 22nd, yes.

LT. COL. SORIEX: That is all.

QUESTIONING BY LT. COL. BURCHAM:

Q How close were you to Sommerfeld on Monday the 23rd?

A He was in my house.

Q Is your house on the market square?

A Yes.

Q Then he led the prisoners off into the woods to the east, is that right?

A Yes, the 23rd, in the morning.

(Recess - court)

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

MR. WACKER: Nothing further.

PRESIDENT: The court understands the defense is finished with this witness?

MR. WACKER: Yes.

PRESIDENT: The witness will be excused.

(Thereupon the witness was excused and withdrew)

MR. O'CONNOR: If it please the court, the next witness to be called is Fritz Roller, to testify in behalf of No. 41, Schreiber.

MR. HEAT: I believe this next witness has previously testified before the court?

MR. O'CONNOR: Yes.

MR. HALL: I ask leave of the court to recess Schultz for consultation.

PRESIDENT: Granted.

FRITZ ROLLER, previously called as a witness by the defense, was recalled by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Your name is Fritz Roller?

A Yes.

Q PRESIDENT: Roller, you are cautioned you are still under oath, do you understand?

A INTERPRETER: Yes.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Roller, I believe your previous testimony in this case was that you came to Flossenbürg in November 1944, is that correct?

Yes.

[illegible] did you ever know [illegible]

[illegible] Flossenbürg.

When did you first [illegible]

The 10th [illegible] Schreiber for the first time.

Where was that?

In the [illegible] Flossenbürg.

What were you doing in Flossenbürg?

[illegible] the Nuremberg ca[illegible] and Schreiber came to us as commando leader.

In Nuremberg or outside of Nuremberg?

It was [illegible] of Nuremberg June 10th.

What year?

'45.

Will you describe to the court the nature of the circumstances surrounding your meeting with Schreiber?

A The first time Schreiber came into the prisoners' quarters [illegible] he [illegible] fall [illegible]. We inspected our work detail and he checked the work we had performed and he [illegible] was very [illegible] satisfied with the work we had done. [illegible] stated that we should go ahead and work like we had [illegible] for because he would like to make one solid block of [illegible] he would like to be the leader of [illegible]. 10th of July he [illegible] once more with the [illegible] commando leader and returned on the 10th of July. From he stayed with us until [illegible].

(oller-[illegible])

Q What were your duties in Nuerenberg?

A We were a building detail.

Q What were your personal duties?

A I worked as a mason.

Q While you were in Nuerenberg about how often did you see Schreiber, on the average?

A Schreiber came daily to our billets.

Q What would he do when he went there?

A In the evening at 6 o'clock there was a roll call, the strength was checked, then the order was given "fall out" and then, after that, he would come down to our billet and play cards or chess with us. On Sunday he took us down to play football. We had two teams, one was headed by the commando leader and one was headed by a prisoner, and we played football.

Q Who took the roll call?

A First Sgt. Schreiber.

Q You have stated that he went down to play cards and chess. Who participated in those games other than the prisoners? Do you mean the SS men or prisoners or both?

A Only prisoners because the SS did not have permission to enter the billets.

Q Will you state to the court about how often he would come to your billets and do this?

A Daily.

Q When did you leave Nuerenberg?

A 7th of May 1944.

rs-
(Roller-direct)

Q Where did you go?

A Back to the camp in Flossenburg.

Q Do you know how long Schreiber stayed in Nuernberg?

A Schreiber left about the 15th of March.

Q Then you were in Flossenburg when Schreiber returned to Flossenburg?

A Schreiber led our detail back to Flossenburg.

Q Didn't I understand you to say you left on the 7th and he left on the 15th?

A That was before that, long before that, on the 14th of July he took the former commando leader back and returned on the 14th of July when he took over the complete charge of the detail.

Q Do you know when Schreiber left Nuernberg for the last time?

A With us on the 7th of March 1944.

Q Where did he go?

A He was in charge of the transport to Flossenburg.

Q Can you tell the court what Schreiber did upon his return to Flossenburg?

A Schreiber came into the camp daily with Mr. Sgt. Kubler. They inspected the clerk's office and the camp, too, until the 15th of March.

Q Where did he go on the 15th of March?

A Schreiber told us that he would be sent to Theresienstadt.

Q What is Theresienstadt?

A I don't know. I've never been in Theresienstadt.

Q Can you tell the court where it is located?

A No.

(Keller-direct)

Q Do you know whether Theresienstadt has any connection with the outcamp Leitmeritz?

MR. [illegible]WITZ: Objected to as leading.

PRESIDENT: Objection sustained.

CROSS EXAMINATION BY MR. [illegible]CONNOR:

Q Do you know how long he stayed away from Camp Flossenburg on that occasion?

A No.

Q Did you ever see him again?

A No.

Q Going back to Nuremberg, how many men were on that detail on the average, during the time you were there?

A 165.

Q Will you tell the court how many men, if you know, died during the time you were there?

A We had one case of death during the 13 months that I have been there.

Q Please describe to the court the circumstances surrounding that death, if you know what they were.

A The bowels of the prisoner didn't move anymore and because of that he died.

Q Do you know where he was when he died?

A He had been quartered in an SS hospital.

Q Where?

A Nuremberg.

Q Can you tell the court whether or not there were any official executions during the time you were in Nuremberg?

A None took place in Nuremberg.

(Weller-direct)

Q Please describe to the court conditions in Nuerenberg during the time you were there with respect to food.

A The food in Nuerenberg was very good. We certainly wouldn't have swapped places with any civilian or SS man. It was the best work detail I have ever had during all the time I had been in camp.

Q Please describe to the court what facilities were in Nuerenberg with respect to hospital care.

A I never got into the hospital where the prisoners were quartered when they were sick but when they got back they said it was very good, they had been taken care of very well. The prisoners' doctor would take care of the dispensary duties in the camp and whenever there was a serious case he would send him to the garrison doctor, Lt. Col. Dr. Bader who would then decide at this hour, at 10 o'clock in the morning, whether the man was seriously ill and should be taken to a hospital and whether he could be treated sufficiently in the quarters.

Q Was that a sick call?

A Each prisoner could go to him at 10 o'clock in the morning and he would be treated just like any other SS man. Dr. Bader and his assistant came two or three times a week to our quarters, would inspect us, the quarters, ask for the food was, and would take care of the prisoners.

Q Was Dr. Bader an SS doctor?

A Yes.

Q Please tell the court where the prisoners' hospital was located in Nuerenberg.

A It was directly in the kaserne.

(Roller-Direct)

Q Where was it with relation to the SS hospital?

A It was all in the square of the Kasserne.

Q Was it located in the same building as the SS hospital was?

A Yes.

Q Did you have an opportunity while you were in Nuremberg to observe how Schreiber treated prisoners who worked in that detail?

A Yes.

Q Please describe that treatment.

A Schreiber visited us daily at our place of work after we had marched out, sometimes twice. He asked the different prisoners how their health was and he would ask what they were working on and he also would talk to the civilian master about the work. Everyone lauded them, the commando leader as well as the employer.

Q Did you ever see Schreiber beat or mistreat a prisoner?

MR. FERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. O'CONNOR:

Q Do you know Schreiber's reputation in Nuerenberg among the prisoners?

A Yes.

Q What was it?

A Schreiber was very well liked. I only saw Schreiber cited once during all the time he was there.

Q What was that occasion?

(holler-interrupt)

A Schreiber received a report from the SS hospital and several letters that a prisoner had written letters to an SS nurse who took care of SS men there. Schreiber left us stand there after the roll call and had the prisoner who had written the letters fall out. He told him off and asked him why he had written such letters and told him a report had been made and he also described to us the contents of the letters that the prisoner had written to the SS girls that he had reproached the government. Schreiber, of course, had to find ways and means to cover up for this man so the report would not go on to Flossenburg, to the Commandant, Koegel. If the report would have gone to Nuerenberg the prisoner would have been hanged.

LAW 2 MEMBER: Do you mean Nuerenberg or Flossenburg?

WITNESS: Flossenburg.

QUESTIONS BY MR. O'CONNOR:

Q Please state to the court what punishment, if any, Schreiber gave this prisoner.

A Schreiber punished prisoners several times. Light cases, he would send them three days to the washroom or latrine duty or room orderly. This particular prisoner who had written the letters, his punishment was seven days room orderly and then he was put to work in the mason's detail.

Q Was there any other punishment he received?

A Not this prisoner.

Q Mr. Roller, do you think you would know Schreiber if you saw him to ay?

A Yes.

Q Will you please look in the dock and see if you can pick him out?

A Up there, the last one to the right.

MR. O'CONNOR: The prisoner has identified Schreiber as No. 41.

Q One more question. How many guards were there in the prison section of the hospital at Nuerenberg?

A None in the SS hospital.

Q Well, I'm talking about the prisoner's section of the hospital.

A There were no guards.

MR. O'CONNOR: That is all.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY MR. MAKOSITZ:

Q Roller, what was the name of the prisoner who was punished for writing a letter?

A I don't know his name I only know he was a Czech.

Q What kind of work did the mason's detail do?

A They had to lay the foundation for the barracks and they had to prepare all these things for that.

Q You are the same Fritz Roller who testified you were a capo at Hersbruck and you had 28 capos under you?

A Yes.

Q Your nationality is German?

A Yes.

Q You also testified how good the food was at Hersbruck. Which place was better, Nuerenberg or Hersbruck?

A In Nuerenberg.

Q And you also testified how well the prisoners were treated in Hersbruck. Were they treated better in Nuerenberg or Hersbruck?

(Roller- direct)
cross)

A There was no treatment at all necessary in Nuerenberg because we were comrades among each other and we were independent, not dependent upon the camp.

Q You mean you were not dependent upon which camp?

A We were not dependent upon any camp in the SS Kaserne, we were on our own. We were only under the jurisdiction of Flossenburg camp.

PRESIDENT: Court will take a half hour's recess.

(Thereupon the court recessed at 1000hours)

Ta 639 TO
11-27-46
1 Floss

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: Please the court, may the record show that all members of the court are present; all members of the prosecution are present with the exception of Mr. Denson and Mr. Pinter, who are absent on business of the prosecution; all the defense staff are present with the exception of Mr. Hall and Doctor Englehern, who are absent on business of the accused; and all the accused are present with the exception of Kisbusch, Mussfeldt, Lipinski, and Winkler, who are sick, and Schmitz, who is conferring with counsel. The interests of those accused are being taken care of by counsel.

The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses, they will please leave.

PRESIDENT: Continuation of cross-examination.

FRITZ ROLLER, called as a witness for the defense, resumed the stand and, having been reminded that he was still under oath, testified further through an interpreter as follows:

CROSS-EXAMINATION CONTINUED

QUESTIONS BY MR. BERKOWITZ:

Q How, when did you first become a capo?

A June, '44.

Q I believe that you testified that you wore a green triangle.

A Yes.

Q Did you serve any previous prison sentences before you came to Flossenburg?

A Yes.

Q What were the offenses for which you were punished?

A For violating the pass law, for tramping, and begging.

Q How many times were you convicted?

A Seven times.

Q Have you been advised by defense counsel or by any other person that on the basis of charges filed against you, you may be named as a defendant in the second Flossenburg trial?

A Yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Roller, have you ever been interrogated by any member of the prosecution staff?

A Yes.

Q Did anyone in the course of any of those interrogations advise you what your rights were and that you might be a defendant in the second Flossenburg case?

A No.

Q Will you please tell the court what the conditions were in Nurnberg with respect to the prisoners being able to get food in addition to their regular food ration.

MR. BERKOWITZ: Objected to as improper redirect examination.

PRESIDENT: Repeat the question.

(Whereupon the last question was read by the reporter.)

PRESIDENT: Objection overruled.

A Three or four times weekly 15 prisoners would be sent to the large kitchen and five would be sent to the officers'

kitchen to clean up. They would scrub the kettles, the floors, etc. And we got food by the barrels. Of course we didn't like that food so we took other food along, such as lard, bacon, fish, sugar, etc.

Q And who ate this food that you got?

A We prisoners.

MR. O'CONNOR: I think that's all, sir.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Roller, you were advised were you not by American authorities heretofore that charges of brutalities had been filed against you?

MR. O'CONNOR: The question is objected to in form unless he will state what authorities so advised him.

PRESIDENT: Objection sustained.

MR. BERKOWITZ: No further questions.

PRESIDENT: Just a minute. The prosecution has asked this particular witness whether or not he was warned by the defense that he might be subject to charges in the second Flossenburg case. The court wants to know whether or not that same advice was given to this particular witness by any prosecution personnel during the time he was interviewed.

MR. BERKOWITZ: The reason I don't pursue the question further, sir, is that I don't have the file in front of me.

PRESIDENT: Well, the court would like an answer just from your own knowledge, Mr. Berkowitz.

MR. BERKOWITZ: To my own knowledge I know that this man was confronted with statements of brutalities charged

against him.

PRESIDENT: Well, was he warned of the possibility that he might become a defendant in the second Flossenburg case by the prosecution?

MR. BERKOWITZ: Yes, to my own recollection he was warned that these charges were filed against him and that he was being interrogated about them with consideration as to whether he was to be a defendant or not in this case or any subsequent proceedings.

PRESIDENT: The reason the court has gone into this is due to the fact that the prosecution has brought the matter up.

MR. BERKOWITZ: The prosecution has brought the matter up to show the man's interest.

PRESIDENT: Well, that is the very reason the court has gone into it from the standpoint of the prosecution.

MR. BERKOWITZ: I make that statement from my own recollection, but I don't have the file in front of me.

PRESIDENT: Questions by the court?

MR. O'CONNOR: May I ask one question first. I would like to have the record checked as to the answer to my question.

MR. BERKOWITZ: His answer was no.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Now, Roller, just when did you arrive in Flossenburg the first time?

A In November '42.

Q And you left Flossenburg, when?

A In February, 1943.

Q And where did you go then?

A To Nurnberg.

Q How long did you remain at Nurnberg?

A Until March '44.

Q Where did you go then?

A To Flossenburg.

Q How long did you remain at Flossenburg that time?

A Until May '44.

Q Where did you go then?

A Hersbruck.

Q How long did you remain in Hersbruck?

A Till the evacuation.

Q How, when did you first meet Schreiber?

A At the SS kaserne at Nurnberg.

Q When?

A The twelfth of July.

Q What year?

A '43.

Q Do you know when Schreiber arrived in Nurnberg?

A He must have arrived between the tenth and twelfth?

Q Of what?

A July '43.

Q Do you know how long Schreiber remained at Nurnberg?

A Schreiber stayed with us until the seventh of March, 1944.

(Roller-Court)

Q What became of him then? Where did he go?

A He went with us with 60 prisoners to Flossenburg.

Q And that was on the seventh of March, 1944?

A Yes.

Q How long did he remain in Flossenburg?

A I can't say exactly. At any rate, he was gone by the fifteenth of March.

Q The fifteenth of March '44?

A Yes.

Q Do you know what became of him after that, or where he went?

A All that was said was that he had gone to Theresienstadt.

Q Now, Feller, did you ever see any beatings around Nurnberg during the time that you were there?

A No.

Q None at all?

A No.

Q Did you ever see any beatings around Hersbruck?

A Yes.

Q How many?

A During the time that Camp Leader Foster was there.

Q What year was that?

A '44.

Q Was anybody also involved in those beatings outside of Foster?

A Yes.

Q Who were they?

A Master Sargeant Schmack.

Q Anybody else?

A I didn't see anyone else outside of the dog handler.

Q Who was that?

A Corporal Humm.

Q Anybody else involved in those beatings

A I don't know.

Q What about around Flossenburg? Did you ever see any beatings there?

A No.

Q Are you sure about that?

A Yes.

Q Never saw anybody boxed on the ears or anything like that, have you?

A No.

Q All the time you were in Flossenburg you never saw a single person beaten or a single person boxed on the ears?

A In January of '42 I only saw that the camp leader mistreated a prisoner.

Q Who was that?

A The work detail from the stone quarry moved into the camp and they had lost a prisoner on the way - he had fallen into the snow. The dog handler looked for him, found him, and brought him into the camp. The camp leader gave him 75 strokes with a stick.

Q Who was that?

A Camp Leader Fritsche.

PRESIDENT: Now, Roller, look right at the court when you answer, look right at the court.

(Roller-Court)

Q How was the food in Flossenburg?

A There were only three kinds of meals in Flossenburg. Every quarter of a year they would change; they would change only three times a year; then they would have turnips, then cabbage, and then have turnips again.

Q Is that all you got?

A And in the morning we would get a potato soup made out of potato peels.

Q Did you ever have any meat in the soup?

A There were little bits in there.

Q How did the food compare? The food in Flossenburg with that in Hersbruck and Nurnberg?

A Comparing it with the food in Hersbruck and Nurnburg it was bad.

Q Now, what period are you referring to as far as Flossenburg is concerned? The entire period you were there or what?

A Before I went to Hersbruck.

Q What year was that?

A '44.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Roller, do you know the date in January of 1942 on which the camp commandant gave the prisoner 75 strokes with a stick?

A I don't know the date any more.

Q Well, are you sure the commandant of the camp then was Fritsch?

A The Camp Leader Fritsch.

Q Yes. Are you sure of that?

A Yes.

MR. O'CONNOR: That's all. If the court please, Mr. McKay would like to ask the witness a question.

PRESIDENT: Proceed.

MR. BERKOWITZ: I want to cross-examine further before Mr. McKay takes him on direct.

PRESIDENT: All right. Proceed.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Roller, you were pretty certain about the dates of the comings and goings of Schreiber in your testimony. Is that correct?

A Yes.

Q How many evenings before you took the stand did you go over these dates with Schreiber?

A Once.

Q And you had conference with him concerning these dates?

A With the defense counsel, yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect? All right, Mr. McKay.

MR. MCKAY: If it please the court, due to the testimony of this witness, I would like to ask him a couple of questions on behalf of the accused No. 48.

PRESIDENT: In the form of cross-examination?

MR. MCKAY: No, direct examination.

PRESIDENT: All right. Proceed.

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Mr. Roller, as I understand your testimony you were in Flossenburg during the month of January of '43.

A Yes.

Q I would like to have you explain to the court what, if any executions, you witnessed during the month of January, 1943, in Flossenburg.

A Two.

Q What were the nature of those executions?

A The whole camp had to stand in formation in the roll-call square; as far as I know, one was a Pole and one a Russian.

Q Will you explain to the court just who participated in those executions.

A The camp leader, the camp doctor, the block eldest stood around.

Q During the month of January 1943 did you come in contact with a man by the name of Wielbach in Flossenburg?

A He was our camp capo at that time.

Q Do you think you could recognize him if you saw him again?

A Yes.

Q Will you look over the prisoners seated behind me in the dock and see if you can identify the man you knew as Wielbach.

A The one in the middle (indicating).

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 48 as Wielbach.

Q I would like to have you explain to the court what, if anything, you saw Wielbach do with regard to those executions that you witnessed in January '43.

A He didn't do anything.

Q Do you know whether he was present?

A He was present on the roll-call square because all prisoners had to be present.

MR. MEKAY: That's all.

PRESIDENT: Any further questions?

MR. O'CONNOR: No, sir.

MR. BERKOWITZ: Nothing further.

PRESIDENT: Questions by the court? Apparently not. The court understands that the defense is finished with this witness.

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. O'CONNOR: The next witness to be called by the defense is Kurt Ohnweiler, to testify in behalf of No. 4, Blomberg.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order. All right, proceed, Mr. O'Connor.

KURT OHNWEILER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q What is your full name?

A Kurt Ohnweiler.

Q How do you spell your last name?

A O-h-n-w-e-i-l-e-r.

Q Your first name is Kurt?

A Kurt.

Q Mr. Ohnweiler, are you being held in custody by the American authorities at the present time?

A Yes.

PRESIDENT: The court advises you at the present time that if you should be asked any question which might tend to incriminate you that you have a right to request the court to refrain from answering that particular question. Do you fully understand?

WITNESS: Yes.

PRESIDENT: All right, proceed, Mr. O'Connor.

Q Mr. Ohsweiler, were you a member of the SS?

A Yes.

Q When did you join it?

A August '43.

Q And were you ever assigned to duty in the Camp Flossenburg?

A Yes.

Q On what date?

A From August '44 until April '45.

Q And to what duty were you assigned in Flossenburg?

A I worked in the card filing system in the Political Department.

Q What was that department known as - by number, I mean?

A Section 2 - Department 2.

Q Who was the chief of that department when you arrived?

A Criminal Assistant Blomberg.

Q Will you look in the dock and see if you can identify Mr. Blomberg.

A Yes. No. 4.

Q Point him out.

A (Witness indicates.)

MR. O'CONNOR: Let the record show that the witness has correctly identified No. 4 as Blomberg.

Q What duties were assigned to you in the Political Department?

A I wrote the file cards and whenever someone arrived I filled them out.

Q Did you have any other duties?

A No, nothing else.

Q Where was your office located with respect to Blomberg's?

A The third room.

Q How long after you were assigned to this duty did you meet with Blomberg?

A The first day.

Q Please advise the court how often you would see Blomberg around the office.

A Several times every day. I can't say exactly.

Q Insofar as you can, will you please advise the court what Blomberg's duties were in the department.

A Blomberg was in charge of interrogations and correspondence with the authorities.

Q What authorities?

A With the authorities who admitted the prisoners.

Q How was Blomberg dressed while he performed his duties in the office?

A He had always civilian clothes on, mostly boots and riding pants, but civilian clothes.

Q Well, did he wear any insignia to designate that he belonged to any particular organization?

A No, I never saw it.

Q How many other people worked in the Department 2 or Section 2 of the Political Department?

A Four SS members; then eight to ten prisoners.

Q Can you give the court the names of the SS men who worked in that office and their ranks?

A A Master Sergeant Boettger; a Private Kuhlmann; Sergeant Strelau; and Sergeant Schlundermann.

Q Can you tell the court what the duties of these men were?

A Private Kuhlmann and Boettger had the correspondence.

PRESIDENT: Just a minute. The court questions whether that is material matter unless you are going to tie it in with material issues.

MR. O'CONNOR: Yes, sir, I hope to.

A (contd) Sergeant Strelau was in charge of new arrivals and Sergeant Schlundermann was in charge of the office of the justice of the peace.

Q Now, you stated there were eight to ten civilians who worked there. Is that correct? I mean prisoners.

A Yes.

Q What were the sexs of those prisoners?

A Men.

Q Did the personnel of that office change during the time that you were there?

A I couldn't say that; on the contrary, there were more prisoners arrived; there were not as many there when I arrived.

Q Now, I am talking about the prisoners who worked in Section 2 of the Political Department.

A Yes, the prisoners. About the SS men?

Q No. Did the prisoners who worked in Section 2 of the Political Department change from time to time while you were in the department?

A No, more came. There were not as many there when I arrived. Perhaps one was replaced whenever he was sick and incapable of doing work.

Q Well, were you ever away from the office during the time you were assigned to Section of the Political Department for a day or more?

A Yes, perhaps three or four days.

Q Well, with the exception of those three or four days that you were away, will you state to the court whether or not you ever saw any women prisoners working in that office?

A No, I never saw it.

Q And were you working there in November of 1944?

A Yes, I worked there.

Q Please describe to the court what the nature of Blomberg's association with the prisoners in the camp was.

A I had the feeling that the prisoners who worked in our offices were satisfied to work there.

Q Can you tell the court anything else about it?

A No, I can't say anything else.

Q Please explain to the court what Blomberg and the other personnel of Department 2 had to do with the duty of making investigations and reports on prisoners.

A Whenever the authorities who admitted the prisoners wanted a report on him as to his conduct, the prisoner was called and his file was taken out; this was sent to the commander; he would endorse it and this letter would then be sent to the authorities that had admitted the prisoner.

Q Where did these interrogations take place?

A In Mr. Blomberg's office.

Q Who did the interrogating?

A Mr. Blomberg, himself.

Q Did he ever conduct interrogations in any other place that you know of?

A I don't know anything about that.

Q Can you tell the court to whom the report of these investigations was sent?

A To the authorities which had admitted the prisoner; it might be the Reichs Criminal Office or the Gestapo.

Q Did a report go to anyone in the camp?

MR. BERKOWITZ: Objection. I object to that as leading.

PRESIDENT: Objection sustained.

Q Well, did a report go to anyone else other than the authorities that admitted that prisoner?

MR. BERKOWITZ: Objection as leading.

PRESIDENT: Objection sustained.

Q Who was the commandant at the camp during the time that you were working in the Political Department?

A Lt. Colonel Koegel.

Q Will you please describe to the court the nature of Blomberg's association with the commandant of the camp.

A Blomberg was the subordinate of the commandant. I cannot judge how their relations were. I cannot permit myself to judge that.

Q Can you tell the court what the Political Department and specifically Blomberg had to do with official executions that took place in the camp?

A I don't know anything about that.

Q Mr. Ohnweiler, you stated you saw Blomberg a number of times each day while you were working there. Did you have an opportunity to see how Blomberg treated the prisoners who worked under him in Department 27

A I did not see how he treated prisoners who were brought for interrogations.

Q No, I am talking about the prisoners that worked in the office under his jurisdiction.

A As I said, they surely were satisfied to be able to work there so far as my opinion is concerned.

Q Please describe to the court how he conducted himself towards these prisoners with respect to beatings or mistreatments.

MR. BERKOWITZ: This is objected to unless proper predicate be laid to show which prisoners Mr. O'Connor has reference to.

MR. O'CONNOR: May I say something, sir? The question preceding it I believe was that I reminded the witness I was referring to the prisoners who worked in the office under his jurisdiction.

PRESIDENT: Objection overruled. Proceed.

A He got the rations for the prisoners there. He went to the administration.

MR. O'CONNOR: Repeat the last question.

(Whereupon the last question was read by the reporter.)

A I never saw that. He acted quite correctly toward these people who worked there.

Q Now, please state to the court whether or not you ever saw Blomberg carrying arms.

A I never saw that because he went around in civilian clothes; whether he had any weapons in his pocket, I don't know.

MR. O'CONNOR: That is all, sir.

PRESIDENT: Cross-examination.

MR. BERKOWITZ: No questions.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q I didn't understand how many prisoners worked in his office.

A Eight to ten.

LAW MEMBER: That's all.

QUESTIONS BY PRESIDENT:

Q Now, just where was your office with respect to Blomberg's office?

A In the third room; in the front was Blomberg's office, then the clerk's office, and then the card file room.

Q Were you ever present in Blomberg's office at the time he was interrogating any particular prisoner?

A No, I was never in there; I was never present.

Q Did you ever hear any sounds emanating from that office that might indicate what was taking place in Blomberg's office during the time of an interview?

A I heard words once in awhile, but I was never able to find the connection.

Q What kind of words did you hear?

A I can't remember that; sounds were heard.

Q Did you ever hear any shouts or cries coming from that particular office during the course of investigation?

A No, I never heard that.

Q Did you ever see any of these men as they left Blomberg's office after an interview? The court is referring to prisoners who had been interviewed.

A That might have happened whenever I came out of the room that they just so happened to come out of his office, because the prisoners had to wait outside in the hallway before being interrogated.

Q Well, did you ever see any evidence of beatings so far as these men were concerned after they left his office?

A No, I did not see that.

Q Now, just what became of these reports that Blomberg made out after an investigation of a prisoner? Do you know?

A I can't say exactly. It might be possible that it went to the authorities which had admitted the prisoner or else to the camp commander. I don't know exactly.

Q And you don't know definitely just what became of these reports?

A No, I don't know definitely.

Q Well, can you tell the court whether or not Blomberg had authority to order a certain manner specified beatings without referring the matter to higher headquarters?

A No, I don't know that.

Q Well, do you know whether or not he ordered any beatings on his own authority?

A No, I don't know that either.

Q Can you tell the court whether or not when these men were being investigated that any witnesses were ever called in, or anything of that nature?

A I don't know anything about that.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Ohnweiler, do you know who the parties were who requested the interrogations conducted by Blomberg?

A Yes.

MR. BERKOWITZ: Just a moment. That is objected to as repetitious; he has already testified to that.

MR. O'CONNOR: I asked him, sir, to whom reports were sent; I didn't ask him before who requested the interrogation.

PRESIDENT: Objection overruled. Proceed.

A (contd) That could have been the camp commander.

Q Of what camp?

A Of Flossenburg; it could have been the camp commander or the authorities which had admitted the prisoners - whoever requested it.

MR. O'CONNOR: That's all.

PRESIDENT: Recross.

MR. BERKOWITZ: No further questions.

PRESIDENT: Questions by the court? Major Lanham.

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Will you state whetherer not Mr. Blomberg's office was directly across the hall from the camp commander, Koegel.

A No, I did not say that.

Q No, I say was it across the hall from Koegel's office?

A No, Koegel had his room in the brick building, upstairs in the headquarters.

Q Well, where was Blomberg's office?

A It was the first one in the barracks.

Q In one of the frame buildings?

A It was a barracks.

Q Well, what kind of a barracks?

A Wooden barracks, just like the barracks there in the camp.

Q Do you know what number barracks that was?

A I can't remember.

Q Will you refer to the diagram, Prosecution Exhibit 5.

A It was the first barracks to the left.

Q The first barracks to the left as you enter the main camp, i.e., under the arch in the brick building.

A Number 1 is the big stone building (indicating); in the barracks to the left the first room was Blomberg's room.

Q That is next to building No. 1?

A Yes.

PRESIDENT: Further questions by members of the court? I think you had better have that indicated.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Ommweiler, will you step over to the chart on the wall and point out to the court where Blomberg's office was with relation to the office of the commandant of the camp, said chart being Prosecution Exhibit No. 5.

(Witness does as requested.)

A That was the barracks of the Political Department (indicating); that was the hallway that went down to here; and this was Blomberg's room right here in front (indicating).

MR. O'CONNOR: Let the record show that the witness has identified a block in black which is just outside the line representing the barbed wire enclosure, it being the first line of blocks to the left, the seventh block from the top, immediately above the block which has heretofore been identified as the block leader's house, on Prosecution Exhibit No. 5.

Q New, will you please point out to the court where the office was that was that of the commandant of the camp.

A That could have been here in the upper story (indicating).

MR. O'CONNOR: Let the record show that the witness has pointed to a block that there appears therein the figure 1 on Prosecution Exhibit No. 5, in black outside the wire enclosure.

PRESIDENT: Any further questions by members of the court?

(The witness resumed the witness stand.)

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Did the commandant's room overlook the camp or overlook the entrance to the camp?

A You could only look the other way, not into the camp.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Ohnweiler, did you know a prisoner employee of Blemberg's office by the name of Prohaska?

A Yes, I knew him.

Q Can you tell the court anything about Prohaska's relations with Blomberg?

A What the relations were in my opinion, good.

Q Do you know of anything that came between them and caused difficulty or trouble?

A No, I couldn't say.

Q Did Prohaska work there during all the time that you did?

A Yes, all the time.

Q What were his duties?

A He was first clerk; he also wrote file cards.

Q Can you tell the court whether or not at any time during the time that you and Prohaska worked there Blomberg ever requested Prohaska's release?

A I know that he told him every once in awhile to try to make a report so he could be released.

Q It is not clear to me who you mean requested the report for release. Who made the request?

A Blomberg told him to make these reports to the authorities who had admitted him.

Q Do you know what happened as a result of those requests?

A I don't know anything about that.

MR. O'CONNOR: No further questions.

PRESIDENT: Recross.

MR. BERKOWITZ: Nothing.

PRESIDENT: Questions by the court? Apparently not. The defense has finished with this witness, Mr. O'Connor?

MR. O'CONNOR: Yes, sir, that is all.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: The court would like to see the senior prosecutor and senior defense counsel for a moment.

(Whereupon an off the record discussion was had between the president and counsel.)

PRESIDENT: All right, defense.

MR. O'CONNOR: Please the court, the next witness to be called by the defense is Fritz Schlunderemann, to testify on behalf of the accused No. 4, Flomberg.

FRITZ SCHLUNDERMANN, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q What is your name?

A Schlunderemann, Fritz.

Q Will you spell your last name, please.

A S-c-h-l-u-n-d-e-r-m-a-n-n.

Q Are you at the present time being held in custody by the American authorities?

A I, yes.

PRESIDENT: The court advises you that should you be asked any questions that might tend to incriminate you, you have the right to ask the court to refrain from answering that particular question. Do you fully understand?

WITNESS: Yes.

Q Mr. Schlunderemann, were you a member of the SS?

A Yes.

Q When did you join it?

A October of 1933.

Q And were you ever assigned to Camp Flossenburg?

A Yes.

Q When did you arrive there?

A February 3, 1941.

Q What was the highest rank you attained in the SS?

A Sergeant.

Q Please describe to the court what your duties were upon your arrival in Flossenburg.

A When I arrived in Flossenburg I was called to the company orderly room.

Q No, I want you to explain to the court very briefly from the time you arrived in Flossenburg what your duties were up until February, 1944.

A The third of February I was drafted and sent to Flossenburg.

Q What year - all right, finish it. Go on.

A I arrived there and was sent to the company orderly room.

Q Well, what were your duties after you got there, up until February, 1944?

A Thereafter I was sent to headquarters and then transferred; then I worked in Department 2 in headquarters.

Q When were you assigned there?

A October 1941.

Q That's the Political Department?

A The Political Department, yes.

Q How long did you work in that department?

A From October until August and then I took the office of the justice of the peace.

Q What year are you speaking of now?

A I am now talking about the year '42, what I did from '42 until the end.

Q Well, were you ever reassigned to the Political Department after that?

A No.

PRESIDENT: Mr. O'Connor, I want to straighten out one matter. You mentioned about going on duty in the Political Department in October '41; then he mentioned about August. Was that August of '42 or just what?

WITNESS: It was August '42. I got there in October '41 and worked there until August of '42.

MR. O'CONNOR: It has been brought to my attention that there may have been a mistake in translation. I would like to verify something.

Q Did you say you worked in the office of the justice of the peace?

A Yes, in August of '42 the office of the justice of the peace was activated by orders of the Reichsfuehrer of SS Himmler.

Q Well, after—

PRESIDENT: Court will recess until 1:30 this afternoon.

(Whereupon the court recessed at 1200 until 1330 hours.)

Ta 640 DF/emd
27 Nov 46
Floss - 1

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all the members of the court are present, all the members of the prosecution are present with the exception of Mr. Denson and Mr. Pinter who are absent on business of the prosecution, all the members of the defense are present with the exception of Mr. Hall and Dr. Englehorn who are absent on business of the accused, all of the accused are present with the exception of Oswalt, Losch, Neye, Maurer, Lipinski, Mussfeldt and Winkler who are ill, and Schreiber, Jakubith and Schmitz, who are conferring with counsel. The interests of the absent accused are being taken care of by their respective counsel. The witness is reminded that he is still under oath and if there are any spectators in this courtroom who expect to be called as witnesses in this case they will please leave.

FRITZ SCHLUNDERMANN, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

MR. O'CONNOR: If the court please, I would like the reporter to read the last two questions.

(Whereupon the reporter read the last two questions from the previous session.)

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Were you relieved of your duties in August of 1942 in Department 2?

A At that time I took care of the office of the Justice of the Peace.

MR. BERKOWITZ: If the court please, I question that interpretation.

PRESIDENT: Are you referring to the question or the answer?

MR. BERKOWITZ: The answer, "the Justice of the Peace."

PRESIDENT: The interpreter will determine to verify this matter.

INTERPRETER: The witness said, "Standesamt" which in German is the office of the Justice of the Peace. However, it could mean Registrar's office.

MR. O'CONNOR: I will ask him what he means.

MR. BERKOWITZ: If I may so, it means the Bureau of Vital Statistics in this case.

INTERPRETER: I don't know what it means in this case, Mr. Prosecutor.

MR. O'CONNOR: I will try to straighten it out then.

QUESTIONS BY MR. O'CONNOR:

Q When you were assigned to work in what has been referred to as the office of the Justice of the Peace, what were your duties?

A The duty that any Justice of the Peace in public life has, to take care of, to take care of marriages, of cases of death, to register births, to change names, and so forth.

Q Where were these duties performed?

A In our camp.

Q In what department?

A Attached to Department 2. That was our section and next to it was Department 2.

Q How long did you remain on that duty?

A Until the end.

Q When you were in that department, did you ever become acquainted with a man by the name of Blomberg?

A Yes.

Q When did you first know him?

A It was the beginning of 1944.

(Schlunderwann - Direct)

Q What month?

A It could have been in January or February.

Q Where was your office in Department 2 with respect to Romberg's office?

A There were five rooms. Mr. Romberg sat in the first room. I sat in the fifth - the last room.

Q Describe to the court as far as you can what Romberg's duties were in Department 2.

A He was in charge of interrogations and then took care of the correspondence with the authorities.

Q Can you tell the court the circumstances preceding an investigation, I mean with respect to who requested such interrogations by Romberg?

A Who, I don't know. I never saw the correspondence. It might have been the prosecution or it might have been the Gestapo or whoever else requested them.

Q What do you mean by, "the prosecution?"

A The prosecution's office requested any kind of interrogation of prisoners he had to take care of.

Q Just who was in the prosecution office? Where was it located?

A They were files which came from the prosecution's office. Files of the sort you see here on the table with the names on top of them.

Q Where was the prosecution office located?

A That varied. It all depended from where the prisoner was.

Q You mean from where he was, or from where he was sent?

A That I don't know.

Q Will you please tell the court who worked in Department 2 under Romberg's jurisdiction after the time Romberg arrived in the camp?

A There was a Mr. Dirweiler, a Mr. Bader, a Mr. Kuhlmann, a certain Strobel, a after Sergeant Boettger, and there was another one whose name I don't know.

(Mr Lankermann - direct)

Q What was the status of those people with respect to whether they were prisoners or civilians?

A They were SS men.

Q Were there any other people who worked in the office?

A Prisoners, yes.

Q How many?

A It could have been eight or ten.

Q Please tell the court what the sex was of these employees, both civilians and prisoners.

A It is logical - the SS men were men and the prisoners were men; also because there were no women in the camp.

Q Were you working there in November 1944?

A November 1944, of course.

Q Approximately how often did you see Blomberg in and around the department?

A Every day, provided that he did not take a tour of duty.

Q How often did he do that?

A Several times. I could determine that he was on a tour of duty but I can't say any more how often.

Q Did you have an opportunity while you were working there with Blomberg to observe how he treated the prisoners who worked in his office under his jurisdiction?

A No, I didn't have any opportunity. I sat in the fifth room way down there and I didn't have any opportunity to watch.

Q Who was the commandant of the camp from November 1944 until the time of the evacuation?

A Camp Commander Koegel.

Q Can you give the court any information regarding the relations between Blomberg and Koegel during that period of time?

(Schlundermann - Direct)

A I was under the impression and I heard from my comrades that he was not well liked by the camp commander.

Q During the period of time that you knew Blomberg, in Department 2 how was he dressed?

A Clothes resembling a uniform. Something similar to what he is wearing now.

Q Did he have any insignia?

A No.

Q What color was it?

A You mean what color clothes he had?

Q Yes.

A Same kind of cloth he is wearing at the present time.

Q My question was what color?

A This gray color.

Q Can you tell the court whether or not he was a member of the SS.

A No, I don't know that.

Q Please state to the court whether or not whenever you saw Blomberg in and around that camp he was carrying arms?

A No, I never saw a weapon on him.

Q Please explain to the court if you can what Blomberg or Department 2 had to do with ordering or participating in official executions.

A So far as I know, the orders for executions came from the Reich Security Head Office to Department 2 and after the executions had been carried out, would be endorsed and sent back.

Q You have stated that one of Blomberg's duties was to interrogate prisoners, is that correct?

A Yes.

(Schlundermann - Direct)

Q Can you tell the court to whom the reports of such investigation were submitted?

A Yes. I said when the office of the prosecution would request such an interrogation the report would be sent back. If the Gestapo would request it, it would be sent there, or the criminal police, then it would be sent back to them.

Q You have referred again to the office of the prosecution. Can you explain to the court just what you mean by office of prosecution with respect to whether there was more than one, or just what was the office of the prosecution?

A There were several offices of the prosecution. Each city had its District Attorney and the prisoners who were convicted in the different places would probably be sent to the concentration camps and the office of the District Attorney would probably request a report which would then be sent back to them.

Q Report from whom?

A I don't know what you mean by, "report from whom".

Q You have just testified that the officers of the various prosecuters would request reports on prisoners who had been sent to concentration camps. Are those the reports that you referred to in connection with the investigations that Blomberg carried out?

A Of course, those reports would be sent back to the prosecution offices. The whole file was put together by the office of the prosecution and would be sent down to Department 2 and if they, for instance, wanted to clear some more points, that was then taken care of by Blomberg.

MR. O'CONNOR: No further questions.

PRESIDENT: Cross examination. Mr. Berkowitz.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Schlundermann, when you refer to these interrogations requested by various prosecutors and conducted by Blomberg, those investigations concerned

habitual German prisoners who would be sent to the German concentration camp did they not?

A Yes, of course they were German prisoners.

Q Then in addition to these you had another class of interrogations that were requested by the Gestapo did you not?

A Gestapo or Criminal Police, yes.

Q Then there was a third class of interrogations which concerned people who were prisoners at Flossenburg and who were carried on the rolls of Flossenburg who were interrogated because they committed some offense in the camp, is that correct?

A You mean inside the camp?

Q Yes.

A You mean whenever a prisoner had committed a theft or something like that?

Q Answer my question if you can.

A That is what you are talking about, isn't it? Whenever a prisoner committed some kind of offense inside the camp, that would be taken to Blomberg?

Q Yes, that is what I mean. Is that correct?

A Yes.

PRESIDENT: I want the witness to face the court.

Q And a great many of these so-called offenses were of attempts to escape or so-called sabotage, is that correct?

A That I don't know - whether it was sabotage or attempts to escape. I was not present at that time.

PRESIDENT: You are giving your answers to the court, not to the interpreter. Face the court when you answer.

THE WITNESS: I beg your pardon, I am hard of hearing. I have to turn my head.

(Schlundermann - Cross)

PRESIDENT: It is all right to turn your head, but when you are addressing the court, please face the court.

THE WITNESS: Yes sir.

QUESTIONS BY MR. BERKOWITZ:

Q Do you know whether or not Blomberg conducted any interrogations inside the arrest building?

A I don't know that. I can't say.

Q Do you know whether any of the prisoners who were carried on the camp rolls were executed?

THE WITNESS: Would you repeat that question?

(Whereupon the interpreter repeated the question.)

A Yes, of course, prisoners were executed.

Q And they were executed after being interrogated by Blomberg, were they not?

A I don't know whether or not they had been interrogated by Blomberg.

Q Well you stated that you knew the Reichs-Sicherheits-Hauptamt ordered the executions. Did the Reichs-Sicherheits-Hauptamt send any representative to Flossenburg to interrogate these prisoners?

A I saw some around. I have seen some who were from the Gestapo but where they were from, I don't know, but I saw them interrogate prisoners.

PRESIDENT: Just a minute, Mr. Berkowitz. I suggest you use English whenever possible. Put it in English, then the court will understand better.

MR. BERKOWITZ: Yes sir.

MR. BERKOWITZ: How would you translate that?

INTERPRETER: Reich Security Head Office.

QUESTIONS BY MR. BERKOWITZ:

Q How many times were there representatives from the Reich Security Head Office in Flossenburg?

A I don't know that. I can't say how often. I saw some of them there occasionally.

(Schlundermann - Cross)

Q Was that twice or five times?

A It could have been twice, it could have been more. I don't know if all of them were from the Reich Security Head Office.

Q Do you know whether the orders of the Reich Security Head Office ordering executions of prisoners were made as the result of interrogations and recommendations of Ellenberg?

A No, I don't know that. I can't give you any information about that.

Q Now you refer to the Office of the Justice of the Peace. Did that office perform any judicial functions?

A I don't understand the question. I don't know what you mean by judicial functions.

Q All right, I will rephrase that question. Did that office do anything besides record vital statistics?

A I performed marriages that had to be performed - marriages of SS men. I certified birth certificates and death certificates.

Q And aside from that, there were no other duties performed by this office, is that correct?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schlundermann, can you tell the court what would have happened to a person who refused to carry out an order of the Reichs-Sicherheits-Hauptamt?

MR. BERKOWITZ: The question is objected to in its present form. It calls for a conclusion on the part of the witness.

PRESIDENT: The objection is sustained. If you can form a clearer predicate the court will give it further consideration.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Schlundermann, do you know what would happen to an officer who refused to carry out an order of the Reich Security Head Office? Can you answer that yes or no?

A What orders are you referring to? He didn't receive any orders from the Reich Security Head Office. He only received orders from the camp commandant.

Q Did he receive orders from the Reich Security Head Office?

MR. BERKOWITZ: That is objected to unless a proper predicate is laid as to his knowledge of what the commandant's office did or received, or what papers they had.

PRESIDENT: You are referring to the camp commandant?

MR. BERKOWITZ: Yes sir. There is no evidence that he has any knowledge....

PRESIDENT: Wait a minute. I was asking Mr. O'Connor that question. You were referring to the camp commandant?

MR. O'CONNOR: Yes sir. There was considerable testimony by this witness on cross examination.....

PRESIDENT: Objection sustained.

MR. O'CONNOR: No further questions, sir.

PRESIDENT: Recross.

MR. BERKOWITZ: Nothing further.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Were you ever present in Blomberg's office during the course of any of those interrogations or investigations?

A No.

Q Did you ever observe any of these men after they left Blomberg's office? I am referring to the prisoners.

A No, but I saw the prisoners standing there whenever they had been interrogated they would go outside and stand again where they had stood before.

Q After these prisoners had left Klemberg's office, what was their physical condition?

A The same as before. I could not see anything on them.

Q Was it customary for a non-SS man to be head of the political department or any of these departments, if you know?

A Will you repeat the question?

(Whereupon the interpreter repeated the question.)

THE WITNESS: I don't know that. I can't say.

Q Can you tell the court whether or not Klemberg was under the jurisdiction of the camp commandant?

A Yes.

Q Can you tell the court what happened to these reports that Klemberg made as a result of these investigations. What became of them?

A I don't know that. They went up to headquarters. I don't know any more about them.

Q What headquarters are you referring to now?

A Department 1.

Q What was Department 1?

A The office of the Adjutant.

Q You are referring to the camp commandant adjutant, Baumgartner's office?

A Yes.

Q In other words, they went up to the headquarters of the camp commandant, is that right?

A These reports went up to the camp headquarters of the camp commandant.

Q Did you ever see any of these reports?

A No.

(Schlundermann - Court)

QUESTIONS BY COLONEL BURNHAM:

Q Do you know who was present during the interrogations in Blomberg's office besides Blomberg and the man being interrogated?

A No, I don't know that.

Q As a matter of fact, you know very little about what Blomberg did, is that right?

A I said I was in the fifth room and I know very little of what was going on there.

Q You don't know whether or not all of Blomberg's reports went to the commandant, Koegel?

A No, I don't know that either.

QUESTIONS BY COLONEL SMYLY:

Q What kind of work did you do in Department 2 from October 1941 to October 1942?

A I took care of the correspondence with the authorities.

Q How many executions took place in January, February and March of 1942?

A I don't know that. I can't say.

Q What is your best judgment?

A I can really give no information.

Q You were there, were you not?

A In the camp, of course, but I don't know how many executions took place there.

Q Did any take place in those three months?

A I don't know that either.

Q You don't know very much about what went on there at all, do you?

A What I didn't see, I can't talk about. I didn't see any executions.

Q Did you hear of any?

A I heard about them. I could find out by going through my books that executions took place.

Q Did you hear that executions took place in January, February and March of 1942?

A I can really not say whether any took place.

Q Did any executions take place the whole time you were in Flossenburg?

A Yes, of course. I said by going through my books I could see that. I had to keep the register, the reports, that came through from the doctor.

Q Approximately how many?

A That could be determined by looking at the books. I don't really know how many.

QUESTIONS BY COLONEL BURCHAM:

Q Were you ever in the second office at the time Blomberg was carrying on an investigation in his office?

A No.

Q Who sat in that second office?

A Kuhlmann, Bader, and I don't recall the other name, as I have stated.

Q Well, did you know these men who worked in those offices very well?

A No, all of these had been there only a short time, with the exception of Kuhlmann who had been there quite some time.

Q Did any of those men participate in investigations or were they present in the room when Blomberg was carrying on investigations?

A No, not so far as I know.

Q Blomberg held investigations?

A He carried on investigations all by himself so far as I know.

Q He made his own reports?

A Yes.

Q He was from the secret police, is that right?

A Secret police. So far as I know, he was from the Gestapo.

QUESTIONS BY PRESIDENT:

Q How do you know that Blomberg carried on these investigations by himself?

A I didn't see any there unless Mr. Blomberg requested anyone, but I didn't see anyone around.

Q You have mentioned that the number of executions and the dates of the executions could be secured from some book. What became of the book you are referring to?

A I am referring to the books of the registrar's office.

Q Is that the book which you kept?

A Yes.

Q What became of it?

A The whole thing happened like this. The camp commandant gave me the order that I should burn these books and I told him it could not be done because they were important documents. He asked me whether it concerned only prisoners or whether others were involved too, and of course upon that I said that civilians were involved as well as SS, and that these were the documents that had to be kept.

Q Did you burn them up?

A No.

Q What did you do with them?

A I didn't burn the books. Whereupon the camp commander said that he would let me know within the next few days.

Q Did he ever let you know?

A No, he didn't let me know, so I went back to him and asked him what would happen to these books.

Q Did he say why he wanted them to be burned?

A Yes, because it was the order.

Q Whose order?

A I don't know where the order came from.

Q What became of the books?

A Again I went to the camp commander and told him that the books were not to be burned up.

Q Just a minute, answer my question. What became of the books?

A After that I went to the warrant officer and I asked him whether he had any more room in the boxes where the files were so that he could put those books in there, also because those were important documents, as I had already explained to the camp commander; and those books were then placed in these boxes and taken away.

MR. BERKOWITZ: If it please the court, I am not sure but I believe one sentence was omitted.

INTERPRETER: The first one came in the middle. "Those were important documents, as I told the camp commander." That is what he started out with.

MR. BERKOWITZ: I think he also stated that the camp commander told him to destroy them.

INTERPRETER: No sir, he said, "after he had returned to the camp commander and told him that those were important documents."

QUESTIONS BY THE PRESIDENT:

Q Do you recall the number of the last man who was executed as indicated on the record?

A No.

Q The court would like to know, Mr. Prosecutor, if those particular records are in the hands of the prosecution.

MR. BERKOWITZ: No sir. We have never been able to locate them.

Q Just what finally became of the books, so far as you know?

A I handed them into headquarters. They were placed in the boxes which were to go along on the transport.

Q To whom did you turn them over at headquarters?

A The warrant officer.

Q Who was he?

A Master Sergeant Hergert.

MR. BERKOWITZ: May I please speak to the court aside.

(Whereupon off-the-record discussion was had between counsel and the court.)

QUESTIONS BY COLONEL SKIMLVIG:

Q Schlundermann, did you ever know a man named Aumeier?

A Yes.

Q What was his job when you knew him?

A He was the leader of the protective custody camp.

Q Whereabouts?

A In our camp.

Q You mean at Flossenburg?

A Yes.

Q When did he leave Flossenburg?

A I don't know that.

QUESTIONS BY LAW MEMBER:

Q The prosecution has produced here a number of books showing the names of all the inmates of the camp of Flossenburg. Did your office keep those records?

A No. I only kept the books of the registrar's office, the ones I wrote in myself.

Q That was separate and apart from the personnel who made up the inmates of the camp, is that correct?

A No, that didn't have anything to do with it. These books were only kept through the reports of the doctors.

Q These other books which the prosecutor had showed the names, the date of birth and also showed the deaths of all of the inmates of the camp. So do I understand that there were two books which showed all the deaths within the camp?

(Schlundermann - Court)

A No, those were the books I took care of. Whether the prisoners had any themselves, I don't know. It could be possible.

PRESIDENT: Any further questions, members of the court? Apparently not. Redirect.

MR. O'CONNOR: One question more.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Do you know who paid Blomberg's salary?

A I don't know that sir.

Q Can you tell the court whether or not the members of the Gestapo wore a distinctive uniform?

A A definite uniform?

Q Yes.

A This gray uniform. I don't know anything else.

Q Describe to the court a uniform that a member of the Gestapo wore.

A He had exactly the same uniform as an SS man except for the shoulder straps.

Q Did Blomberg wear the distinctive shoulder straps?

A No, he only wore civilian clothes, a gray jacket like he has on at the present time.

MR. O'CONNOR: That is all sir.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q By civilian clothes you mean that of the SS without insignia, is that correct?

A You are now referring to the uniform of the Gestapo? They only had different rank insignia.

Q You stated only a moment ago that your job was to carry on correspondence with the authorities. What was the nature of that correspondence?

A Those were requests as to the nature of the prisoner's confinement and the period of time, or divorces.

Q Now Schlundermann, have you been advised that a witness in this case has testified that during interrogations by you and Blomberg prisoners were severely beaten?

MR. O'CONNOR: If it please the court, Mr. Berkowitz has objected to that very type of question in today's session of court, and I object on the same ground that he raised this morning.

PRESIDENT: The objection is sustained.

MR. BERKOWITZ: May I be heard on that, sir?

PRESIDENT: All right, proceed.

MR. BERKOWITZ: If it please the court, I would like to have the opportunity to point out to the court the difference between those questions, the question asked earlier and the question which I ask now.

PRESIDENT: Mr. Berkowitz, in your objection you stated "the witness" and the court is basing the decision on that particular point.

MR. BERKOWITZ: My question refers to something.....

PRESIDENT: No, proceed. The court has already acted upon that.

MR. BERKOWITZ: Schlundermann, have you been advised by counsel as to the nature of the testimony given by a witness, Prohaska?

THE WITNESS: (No answer.)

(Schlundermann - Recross)

PRESIDENT: Court will be closed.

(Whereupon the court was closed at 1430 hours and reopened at 1445 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court, all the members of the court, prosecution, defense and the accused who were present in the courtroom at the time the court was closed are present now. The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses, they will please leave. May the record show that Jakubith and Schreiber have returned to the dock.

PRESIDENT: All right. Proceed.

FRITZ SCHLUNDERMANN, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

RECROSS EXAMINATION (Continued)

MR. BERKOWITZ: Reporter, will you read the last question?

(Whereupon the question was read by the reporter as follows:

"Question: Schlundermann, have you been advised by counsel as to the nature of the testimony given by a witness, Prohaska?")

PRESIDENT: Just a minute. It seems to me that was defense counsel in there.

MR. BERKOWITZ: Will you please repeat the question?

(Whereupon the reporter again read the question.)

QUESTIONS BY MR. BERKOWITZ:

Q I refer to defense counsel.

A He asked me whether Mr. Blomberg signed a petition for Prohaska which I answered in the affirmative.

(Schlundermann - Recross)

Q Will you answer my question please?

A No, he didn't tell me about testimony.

MR. BERKOWITZ: No further questions.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

MR. BERKOWITZ: Nothing more, sir.

PRESIDENT: Has the defense finished with this witness?

MR. O'CONNOR: Yes sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. O'CONNOR: If the court please, the next witness will be Fritz Multhaupt, testifying on behalf of Number 4, Blomberg.

FRITZ MULTHAUPT, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Will you state your name, please?

A Fritz Multhaupt.

Q Are you being held by the American authorities at the present time?

A Yes.

PRESIDENT: The court sees fit to advise you at the present time that if you should be asked any question which might tend to incriminate you that you have the right to request the court to refrain from answering that particular question.

THE WITNESS: Yes.

(Multhaupt - Direct)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Multhaupt, were you a member of the SS?

A No.

Q Were you a member of the SA?

A No.

Q Were you a member of the Gestapo?

A No.

Q What is your hometown, Mr. Multhaupt?

A In Bad Salzuflen in Lippe.

Q What was your position in your hometown?

A Criminal secretary, I was there.

Q Of what organization?

A Local criminal police.

Q How long did you hold that job?

A From the year 1936 until the 6th of November 1945, until I was arrested.

Q Were you ever in Camp Flossenburg?

A Yes.

Q In what capacity?

A As criminal secretary.

Q In what department?

A Department 2.

Q When did you take over the duties of that job in Flossenburg.

A On 12 October 1943.

Q What were your duties as criminal secretary in Flossenburg?

A I was in charge of Department 2.

Q What were your duties when you were in charge of that department?

A I had to take care of the prisoners files.

Q What did those files include? What information did they include?

A The papers of admission from the authorities which had admitted the prisoners.

Q Anything else?

A Things that happened in the camp.

Q Will you please explain that to the court?

A If, for instance, a prisoner died, this report was added.

Q In your capacity as chief of Department 2 did your duties include making investigations and reports of activities in the camp?

A I conducted small interrogations, yes.

Q What was the nature of the interrogations?

A It varied. It was possible, for instance, that files would be submitted by the home authority of the prisoner and that on the basis of those files, investigations would be conducted.

Q Can you explain to the court the procedure which preceded the files coming to your office for interrogations in the case which you just mentioned where they came from the office of the prosecutor of another town?

MR. BERKOWITZ: If it please the court, I object to that question as being irrelevant. We have no basis for tying that up with the accused, Blomberg. Until such basis be made, I object to it.

MR. O'CONNOR: May I answer that, sir?

PRESIDENT: Yes.

MR. O'CONNOR: It will be shown here by this man's testimony that he was the predecessor of Blomberg as chief of Department 2, and I am just trying to show what the conditions were when Blomberg took over that department.

(Multhaupt - Cross)

PRESIDENT: Objection overruled, but at the same time, Mr. O'Connor, be very concise about the matter.

MR. O'CONNOR: Reporter, will you please read my last question to the witness?

(Whereupon the reporter read the last question.)

THE WITNESS: You mean what preceded it?

QUESTIONS BY MR. O'CONNOR:

Q Yes.

A We received all these things from headquarters. All these files would be submitted to headquarters. There was a locker there, a cabinet, in which the correspondence for all the departments was placed.

Q Did the prosecutor of the towns from which these requests came request you to make interrogations of prisoners in the camp?

A You mean if they would request that?

Q Yes.

A I don't recall having had any file from any prosecutor. The things we received were divorces if a wife or prisoner wanted a divorce, or else matters of support would be submitted by the local hometown authorities.

Q Will you please state to the court if you know the method by which the secretary of the criminal departments were was selected in concentration camps?

A No, I can't say that.

Q From whom did you receive your orders to report to Flossenburg?

A From my burgomeister. He in turn received his orders from the Reich Security Head Office in Berlin.

Q What did they state?

A That I would have to be ordered to go there. I have this order with me. I can show it to the court.

Q Will you produce it, please?

(Whereupon the witness did as requested.)

A That is a copy.

Q Where is the original?

A That is in my personal file in Bad Salzuflen, that is, with the government in Detmold.

MR. O'CONNOR: Will you mark this please as Defense Exhibit No. 61 for identification, it being a copy of the orders of the present witness to report to Camp Flossenburg.

(Whereupon the document referred to was marked Defense Exhibit No. 61 for identification.)

QUESTIONS BY MR. O'CONNOR:

Q I hand you a document marked Defense Exhibit No. 61 for identification and ask you to state to the court what that is.

A That is the order of transfer.

Q By whom is it signed?

MR. BERKOWITZ: If it please the court, I think that any testimony concerning this man's order has no relevancy in this court; there is no evidence before this court. We know nothing about the orders of Blomberg, and if we did, the matter would have no relevancy.

MR. O'CONNOR: I will withdraw that question, sir.

PRESIDENT: Proceed.

MR. O'CONNOR: I will lay a foundation.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Multhaupt, did you ever know a man by the name of Blomberg?

A Yes.

(Multhaupt - Cross)

Q How long have you known him?

A Since 1927.

Q Where was he when you first knew him?

A In 1927 I was transferred to the protective police in Bilefeld and I got acquainted with him there.

Q What was Mr. Blomberg doing then?

A He was doing street duty also and at one time was in charge of the supply room.

Q In what capacity?

A At first he was wachtmeister and later I believe he was oberwachtmeister.

Q In what organization?

A In the protective policy of the government in Bilefeld.

Q Did you ever know Mr. Blomberg in Flossenburg?

A Yes.

Q When did you first see him there?

A When he first arrived there. It must have been the 20th of February 1944, if I am correct.

Q How long did you remain in Flossenburg after his arrival?

A About eight days.

Q What instructions, if any, did you give him regarding the duties he was to have in Flossenburg?

MR. BERKOWITZ: Objected to as being immaterial and irrelevant.

PRESIDENT: Objection overruled.

MR. O'CONNOR: Sir, I would like to withdraw that question.

QUESTIONS BY MR. O'CONNOR:

Q Who succeeded you as secretary of the criminal police in Flossenburg?

A Blomberg.

(Malthaupt - Gross)

Q Did you give him any instructions in his duties during the eight days that you remained in Flossenburg after Blomberg's arrival there?

A Yes, I handed the department over to him.

Q What instructions did you give him at that time?

A I told him what he had to do there - the same duties that I had performed, and he had to go on doing the same thing.

Q What are the things you told him he had to do?

A I don't know exactly any more just what I told him but I told him that he had to take care of new arrivals, and what the procedure and handling of the office there would be.

Q You stated that you worked in the protective police in this town of Bilefeld and you also testified that Blomberg also worked on the protective police force in Bilefeld?

A Yes.

Q Did you work there at the same time?

A From 1927 to 1932.

Q Do you know where Blomberg was located and what his occupation was just prior to his arrival in Flossenburg?

A Yes.

Q Where was he?

A He was with the local criminal police in Bilefeld.

Q Did you have any conversations with Blomberg after his arrival in Flossenburg with respect to his being ordered to succeed you as criminal secretary of Department 2 in Flossenburg?

A The ones he had received in Bilefeld?

Q Yes.

A No, I don't know that.

(Multhaupt - Cross)

Q Do you know from whom he received his orders to report to Camp Flossenburg?

A No, I don't know that. I assume from Hanover because they were all under the same headquarters.

MR. BERKOWITZ: I move that this be stricken from the record as being an assumption on the part of the witness without any basis being made for it.

PRESIDENT: The motion to strike on the part of the prosecutor is sustained.

QUESTIONS BY MR. O'CONNOR:

Q From whom did you receive your orders at the time you reported to Flossenburg?

A From my burgomeister.

Q When Blomberg arrived in Flossenburg to take over your duties, how many employees were there in Section 2 of the Criminal Department?

A Four and two prisoners.

Q Four what?

A There was a Master Sergeant Weck.....

PRESIDENT: Court will adjourn until 0900 hours Monday.

(Whereupon at 1500 hours the court adjourned until 0900 hours, 2 December 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: Einzelheiten: .....

The above charges are referred for trial to the *Summary / *Intermediate Military Court to be held / *General

Die Verhandlung wird vor dem *Einfachen / *Mittleren Militärgerichte / *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges;
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

Case No.

~~*Summary~~
~~*Intermediate Military Court~~
*General

Place Dachau, Germany

Date 2 December 1946 194
0900-1700 hours

~~Members of Court~~

WITNESSES:

Fritz Multhaupt
Konrad Blomberg

Pages 7390 - 7470 Incl.

Prosecutor

Defence Counsel

Interpreter

Reporter

Accused Friedrich Lecker, et al.

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES VERSUS FRIEDRICH BECKER, ET AL.

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

2 December 1946 0900 - 1700 hours PAGES 7390- 7470 Incl.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
FRITZ MULTHAUPT	7390 7402		7407 7411	7408	7408 7410
KONRAD BLOMBERG	7412 7427	7440 7449	7462	7466	7467

EXHIBIT.

Number	Description	Marked	Received in Evidence
P-61	Copy of orders of Fritz Multhaupt to Camp Flossenberg.		7394
P-62	Identification card of Konrad Blomberg with atchd photo	7432	7433
P-63	Statement of Konrad Blomberg in German	7445	7446

Ta 641 TG
12-4-46
1 Floss

Camp Dachau, Germany

2 December 1946

MORNING SESSION

(Thereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Mr. McKay, and Doctor Angelhorn, who are absent on business of the accused; all the accused are present with the exception of Eisbusch, Furst, Lesch, Mussfeldt, Lipinski, and Oswalt, who are ill and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Defense.

FRITZ MULTHAUPT, called as a witness by the defense, resumed the stand and, being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION CONTINUED

QUESTIONS BY MR. O'CONNOR:

Q Mr. Multhaupt, on Wednesday at the time of the recess you were testifying as to who the employees in Department 2 were at the time Blomberg came and took over your duties.

A Yes.

Q And you stated there were two prisoners and four SS men. Who were the SS men?

A That was the First Sergeant of the SS, Wuok, and Sergeant of the SS, Schlundermann.

Q Can you remember the other two?

A And Sergeant of the SS Strelau - I don't know how to spell that name.

Q Who was the fourth man?

A That was the SS Private Kuhlmann.

Q What were the duties of the two prisoners who worked there?

A One of them helped in filling out the card index files and also served as interpreter.

Q What did the other do?

A The other was a photographer in the photography division; and there was a third one I forgot to mention; he did clean-up work and polished things.

Q Will you explain to the court the various types of investigations that were conducted by Department 2?

A Investigations? We didn't really conduct very many investigations there.

Q Well, interrogations; did you make interrogations?

A One time the commandant sent me to an outside camp Kronderf and the commandant or the leader of that outside camp said that a report had come in, in regard to a German prisoner there who had a love affair with a German woman, and they had been smuggling letters out and I had to investigate this situation.

Q Did you make any other kind of interrogations?

A It would often happen that inquiries would come in from outside authorities in regard to prisoners such as, for example, a prisoner who had to pay alimony or a prisoner who had to pay fines for sentences which he had received in previous proceedings.

Q Now, please explain to the court who these outside authorities were who requested interrogations.

A They were usually the authorities in the native city of the man in question or else the housing authorities.

Q When you made these interrogations, did you make a decision as to the facts or did you just make a report of what the man told you?

A The only thing I did was let the prisoner have a chance to express himself in regard to these questions and I would write that down.

Q Did you make any recommendations?

A Recommendations?

Q As to penalties or as to anything like that?

A No, they weren't things in which a punishment was involved.

Q Did you conduct interrogations in Camp Flossenburg at the request of the commandant of Camp Flossenburg?

MR. BERKOWITZ: May it please the court, I hesitated to object to the continual leading of the witness, but the defense seems to be continuing and I interpose an objection at this time.

PRESIDENT: Objection sustained.

Q Did you make any other interrogations at Flossenburg?

A No.

Q While you were chief of Department 2, from whom did you receive your salary?

MR. BERKOWITZ: Objected to as immaterial.

PRESIDENT: Objection sustained.

Q Malthaupt, will you please explain to the court what the functions or duties of Department 2 were in respect to participating in official executions.

A Department 2 had nothing to do with executions; at least I never knew of any case where I had to take part in an execution. Practically speaking, I was there only a quarter of a year.

MR. O'CONNOR: At this time, sir, I offer in evidence a document which has been identified as Defense Exhibit No. 61 for identification, it being a copy of this witness's orders to report to Flossenburg for duty.

PRESIDENT: Any objection?

MR. BERKOWITZ: May it please the court, I can't read it but defense counsel has described it and if the document is as described, it is objected to as being incompetent, immaterial, and irrelevant.

PRESIDENT: Mr. O'Connor.

MR. O'CONNOR: Sir, I think it is very material in assisting this court in determining the method by which chiefs of Department 2 were recruited - just how they got there.

PRESIDENT: You are referring, of course, to the defendant Blomberg?

MR. O'CONNOR: Yes, sir - no, these aren't Blomberg's orders.

PRESIDENT: The court realizes that, but as to what the system was in effect as far as the choice of these various individuals concerned who handled the situation in protective custody in Department 2.

MR. O'CONNOR: Yes, sir.

MR. BERKOWITZ: It is objected to as immaterial and irrelevant, first of all because it does not concern the defendant Blomberg, himself; it concerns another man; the best evidence concerning Blomberg's appointment would be his own appointment. Secondly, the system of appointment is irrelevant and immaterial because they are not being tried for the manner in which they were appointed, but are being tried for the things they did at Flossenburg and the out-camps, and the method of appointment or the source of the appointment is immaterial and irrelevant and only clutters up the record.

MR. O'CONNOR: I would like to say one more thing. It is my understanding that part of the formal charges in this case against Blomberg was that he was a member of the Gestapo inasmuch as he was chief of Department 2, and I would like to show by this document that the chiefs of Department 2 were not members of the Gestapo.

MR. BERKOWITZ: May I answer that, sir?

PRESIDENT: Go ahead. Make it short.

MR. BERKOWITZ: Blomberg's membership or non-membership in the Gestapo would certainly not be indicated by the sort of the appointment of the witness, and as such I contend, sir, it is irrelevant.

PRESIDENT: The objection of the prosecutor is overruled. Subject to objection on the part of any member of the court, Defense Exhibit No. 61 will be received by the court in evidence and given such weight as the court sees fit.

(The document heretofore marked Defense Exhibit 61 for identification was received in evidence as Defense Exhibit 61, is attached hereto, and made a part of the record.)

MR. O'CONNOR: Sir, I will have an English translation of this made and have it marked Defense Exhibit 61-A for identification.

QUESTIONS BY MR. O'CONNOR:

Q I hand you what is identified as Defense Exhibit No. 61 and ask you to state to the court what that is.

MR. BERKOWITZ: Objected to as repetition; it has already been testified.

MR. O'CONNOR: I submit that is preliminary, sir, to another question.

PRESIDENT: Objection overruled.

A That is the order of my transfer when I was ordered away.

Q By whom is it signed?

A This here is Schraepel; I don't know that name; and down here—

Q Well, what is his office?

A Down here is the word signature; I don't know who signed it; it might be someone from the town of Detmold.

Q Do you know what his title was?

A This one here from Detmold I don't know. I can't tell you.

Q Who gave you these orders?

MR. BARKOWITZ: If it please the court, that is objected to. The orders speak for themselves and are the best evidence.

PRESIDENT: Objection sustained.

MR. O'CONNOR: Please the court, inasmuch as this witness is being held by the American authorities and may possibly need Defense Exhibit 61 for his own use, I request that I be permitted to have a photostatic copy made of Defense Exhibit 61 and have it substituted for this document.

PRESIDENT: The request is granted. In the meantime Defense Exhibit 61 will stay with the records of the case.

MR. O'CONNOR: Yes, sir.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Kulthaupt, you stated that you have known Mr. Blomberg since 1927. Is that correct?

A Yes.

Q Do you know what Mr. Blomberg's reputation is for truth and veracity?

A I learned to know him as a decent comrade.

Q No, do you know—

A He was very ambitious in his work.

Q No, do you know what his reputation was? Answer that yes or no.

A He had a very good reputation.

MR. O'CONNOR: Sir, at this time I am going to ask Doctor Wacker to interrogate this witness for me with respect to the German law regarding interrogations.

PRESIDENT: What interrogations are you referring to?

MR. O'CONNOR: The interrogations that have been referred to, that prosecutors sent requests into Department 2 for various types of interrogations.

MR. BARKOWITZ: Please the court, that is objected to as irrelevant. It has already been testified to that these requests for information came in concerning German prisoners who were criminal prisoners and held there in protective custody, and did not refer to subjects or nationals of the Allied countries; that has already been testified to and as such it is immaterial. I am referring to these questions that came from prosecutors concerning their behavior and concerning vital statistics, marriage, alimony, and things of that sort.

MR. O'CONNOR: Well, may it please the court, I have been told by so many people that there is such a confusion as to what the method actually was that I thought possible Doctor Wacker could clear it up better than I because I am not acquainted with German procedure.

PRESIDENT: Doctor Wacker.

DOCTOR WACKER: I told Mr. O'Connor that the prosecution as well as the defense, and probably also the court, is not entirely clear about a number of matters in regard to German law, which are perfectly clear to the average German, but are not clear to the court; and therefore I have also asked Mr. O'Connor to call a German legal expert to the stand in order to clear up these legal questions about which there is some doubt in this court, and I believe the

people here have completely false ideas about what we understand when we think of a man who conducts interrogations. For that reason Mr. O'Connor has asked me to ask this witness questions in order to lay a foundation for the interrogation of the German legal expert who will be called.

MR. BERKOWITZ: Please the court, I further object to it on the ground that this man is no expert concerning German law.

MR. O'CONNOR: That is not maintained by the defense either.

PRESIDENT: The objections of the prosecutor are overruled. The only thing, Doctor Wacker, make it concise.

The court will be closed.

(Whereupon the court was closed at 0930 hours.)

(Whereupon the court was opened at 0945 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all personnel who were present at the time the court was closed are still present with the exception of Colonel Denson, who is absent on business of the prosecution, and Doctor Schmitz, who is absent consulting with counsel.

The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses, they will please leave the courtroom.

PRESIDENT: Now, Mr. O'Connor, the court is not interested in German law as it affected German nationals, but the court will receive in evidence the German law as it may have affected Allied nationals. The court will give you a few moments' time to confer with Doctor Wacker about that particular decision of the court.

The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order. All right, Doctor Wacker, proceed.

DIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q In Flossenburg in Department 2 did you interrogate foreigners as well as German prisoners?

A I don't know anything about foreigners because they didn't have anything to do with German authorities, you understand. It's possible that I interrogated one, but I am not sure any more, and if I did it was a mistake in the personal data.

Q If you had received an order to interrogate a foreign prisoner, would you have had to carry out this order, or could you possibly have refused?

A I could not have turned it down. I could not have refused to carry it out.

Q Do you know whether Blomberg also interrogated foreigners?

A I can't tell you any more. When he took over, I wasn't there any more.

Q What was Blomberg's job before he was transferred to Flossenburg?

A He was a chief secretary of the Criminal Police of the city of Bilefeld.

Q What did such a secretary of the Criminal Police have to do?

MR. BERKOWITZ: Please the court, I again have to object. The best evidence would be from the man himself; this is hearsay evidence which might be admissible if the witness himself were not available; Blomberg's here and can tell us what his duties may have been, and as such the evidence introduced is objected to.

PRESIDENT: Go ahead, Doctor.

DOCTOR WACKER: I have to object to that. What I am trying to prove here is that the duties which the party in question had in Flossenburg are exactly the same duties which he had in the police station in Bielefeld, and this witness can give me information about that.

MR. BERKOWITZ: Please the court, I further object to counsel advising the witness what he expects to be proven by his testimony, and I again renew my objection that the best evidence concerning these duties would be from Blomberg himself, who is available as a witness.

PRESIDENT: All right, Mr. Hall.

MR. HALL: If the court please, I only wish to say that the statement by the prosecutor as regards the best evidence rule is a complete distortion, and if the court chooses to follow that rule, I respectfully ask to be heard further.

DOCTOR WACKER: May I also say something?

PRESIDENT: Make it short.

DOCTOR WACKER: If what the prosecution says is true, that Blomberg is the best proof here, then I must maintain that what Blomberg says is true and indisputable.

PRESIDENT: Read the question please.

(Whereupon the question was read by the reporter as follows:

"Question: What did such a secretary of the Criminal Police have to do?")

PRESIDENT: Doctor Wacker, what duties are you referring to in your question, duties performed at Flossenburg, or in civil life?

DOCTOR WACKER: I want to ask the witness a question in order to bring out the comparison between the duties which he performed

in Bilefeld and the duties which were performed in Flossenburg.

MR. BERKOWITZ: Please the court, I have no objection to the witness testifying as to what his own duties may have been, but I do object to his testifying concerning what Blomberg's duties may have been or what his conduct may have been. He stated that he did not know what Blomberg did at Flossenburg.

PRESIDENT: All right, Doctor Wacker.

DOCTOR WACKER: But I must refer to the fact that the witness has already testified that he was the predecessor of Blomberg and that he had the same duties to take care of in Flossenburg as Blomberg in Department 2.

PRESIDENT: Well, Doctor, as far as this particular witness is concerned, confine your interrogation to his duties in Flossenburg. The court is not particularly interested in what he did before coming to Flossenburg.

PRESIDENT: (to Mr. Berkowitz) Then, you are going to withdraw your objection?

DOCTOR WACKER: I withdraw my question.

QUESTIONS BY DOCTOR WACKER:

Q What difference is there between an interrogation which is carried out in the police station in Bilefeld and an interrogation which is carried out in Flossenburg?

MR. BERKOWITZ: Again I object.

PRESIDENT: Objection sustained.

Q In regard to the contents of the record, what duties does an official have who carried out an investigation, an interrogation, in Flossenburg?

MR. BERKOWITZ: Again I have to object, sir, unless it is tied up with nationals of Allied countries. This witness testified he conducted no such interrogations.

Ta 641 TG
12-4-46
12

PRESIDENT: Objection sustained. The court will take a half-hour recess.

(Whereupon at 1000 hours the court recessed until 1030 hours.)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Dr. Engelhorn, who is absent on business of the accused; all the accused are present, with the exception of Loesch, Oswalt, Hisbusch, Mussfeldt, Hurst and Lipinski, who are ill, and Dr. Schmitz, who is conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

FRITZ HULTHAUPT, called as a witness by the defense, resumed the stand, and being reminded that he was still under oath, testified further through the interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY DR. HACKER:

Q How does the investigation proceed? How was it carried out?

MR. BERKOWITZ: If the court please, that is objected to again. This witness has not testified that he investigated the cases of allied nationals at Flossenburg.

PRESIDENT: Objection sustained.

DR. HACKER: Then it is impossible to clear up this point.

PRESIDENT: Dr. Hacker, the court will give you an opportunity to interrogate this particular witness on matters referring to allied nationals at Flossenburg.

Q Please tell us how the investigation of a foreigner is conducted.

MR. BERKOWITZ: That is objected to because the witness has said he didn't conduct any.

PRESIDENT: Objection overruled.

A It was the same kind of investigation as took place with a German national. First of all the personal data were recorded and then we came to the matter in question.

Q How was the document drawn up—the record of interrogation—was each individual question recorded and the answer to that, or was there a summary of the whole matter made?

MR. BERKOWITZ: Objected to as being leading.

PRESIDENT: Objection overruled.

A That all depended on the official who took care of the investigation. Some of them carried out the investigation by question and answer forms. I never did that. I always wrote it down in narrative style.

Q The official who conducts the interrogation—does he have a chance in this record to express his own opinion about the matter?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

Q What does the record contain?

A Merely the state of affairs.

Q What do you mean by that—merely the state of affairs?

A I have to interrogate the accused in all matters which are contained in the penal book.

Q Please explain to the court whether the record of this interrogation contains only the facts which the person being interrogated tells you or whether it contains other information.

A I don't just write down what he tells me but I also ask him questions, especially on those occasions when proof is already at hand.

Q In regard to these questions—what do you write down?

A I have to write down what he tells me then.

Q Do you write anything else down?

A Not in the record itself, no.

Q Do you write anything down outside the record?

A That all depends on me; whether I want to do it or not. For instance, if I have the feeling that the man I am interrogating is not telling the truth and I have proof at hand that he is not telling the truth then I can add a summary of my own.

Q Is it your duty to make such a summary—such a conclusion?

DR. BERKOWITZ: Object to that as leading.

PRESIDENT: Objection sustained.

Q We will talk now about the record itself and not about this final report, this conclusion: What does the record itself contain?

A The record contains the statements which the person makes who is accused.

Q And what does the final report, the conclusion, contain?

A The final report contains my opinion.

Q In what sort of cases do you make such final reports?

A We usually make a final report, although it was never demanded of us, and we would make it in such cases where burglary, theft, embezzlement or fraud was committed.

Q Did you make such final reports in the records which were taken up in Flossenburg?

A I didn't make any interrogations of that nature in regard to penal affairs in Flossenburg and so I never had occasion to make such a final report.

Q Do you know whether Blurberg made any final reports of that nature in Flossenburg?

A I don't know that because when he was there I wasn't there any more.

Q Who signed the records in Flossenburg?

A The interrogator.

Q Were these records sent on further to any other authority higher up?

A The matter went back to the point from where the thing started.

Q Were the records sent to any other point inside the camp?

A I gave them back to the commandant's office. That's where we got the things.

Q Did anyone from the commandant's office have to sign these documents

A No.

MR. WACKER: No more questions.

PRESIDENT: Cross-examination?

MR. BERKOWITZ: No questions.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Did these reports from the protective custody department contain any recommendations as to action to be taken?

A I was not in the protective custody department.

Q Well, change that question then to Department 2.

A No, we merely had to record any matters containing previous convictions and record who had turned in this report.

Q But the report did not include any recommendations as to action to be taken by higher authority?

A No.

Q The court understands that you were head of the criminal section, Department 2, at Flossenburg, is that correct?

A Yes, about four months long; but during that time I had fourteen days furlough and also made official trips.

Q And that Blomberg succeeded you in that same department.

A Yes.

(Hulthaupt - Court)

QUESTIONS BY COLONEL SMILY:

Q Did you witness any executions while you were at Flossenburg?

A No.

Q Your department had nothing whatsoever to do with executions at Flossenburg?

A That's right.

Q So far as you know you don't know of any executions at Flossenburg, is that true?

A I remember that executions did take place in connection with one case. Russians were shot to death, for example.

Q Nobody from your department had to witness that?

A No.

QUESTIONS BY COLONEL SCHELVIS:

Q Did you ever hear of the Dachau outcamp of Flossenburg?

A No, not when I was there.

QUESTIONS BY COLONEL DUNCAN:

Q You stated that you did not investigate any cases of any foreigners, is that right?

A That's right. During the time I was there I did not conduct any investigations with regard to foreigners.

Q Well, if there had been any cases which would have called for investigations in the case of foreigners who would have done that?

A Probably the commandant's office would have referred the matter to us, to Department 2.

QUESTIONS BY PRESIDENT:

Q The court understands that you would have followed the same procedure that you have indicated as far as these interrogations and reports are concerned.

A Yes, I would have had to carry out the interrogation. I would not have had a chance to turn it down.

Q With regard to these reports that you turned into headquarters: What was the channel from there on?

A The reports from Department 2 went directly back to the commandants office.

Q Were they kept there or were they sent on somewhere else?

A I can't tell you.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. [illegible]: That is all, sir.

PRESIDENT: Mr. Wacker:

REDIRECT EXAMINATION

QUESTIONS BY MR. WACKER:

Q Why was Department 2 called the political department?

A I often wondered about that myself when I arrived there. It didn't have anything to do with politics; it was merely the personnel department.

(Chaltharmt-Redirect)

Q The same procedure would have been followed as far as reports are concerned?

A Yes, the interrogation would be carried out exactly the same as always, the same way I was used to doing it at my place of work. And we would use for that purpose printed documents, mimeographed documents, which were at hand, the same kind of documents we already used in civilian life in the police station.

QUESTIONS BY COLONEL SMITH:

Q Did you have any escaping prisoners get shot while you were in charge of Department 2?

A I cannot remember of any cases of that kind. But I did not have to carry out that investigation; I believe the court officers would have to do that.

QUESTIONS BY COLONEL BURCHAM:

Q What was the purpose of a final report, a conclusion, if such a report was made?

A In order to make the matter easier for the court or the prosecutor; to give him a clear picture of the entire train of events.

Q Did such a final report include any personal opinion of your own or any suggestions which you might make?

MR. BURKWITZ: Objected to as repetition and also a leading question.

PRESIDENT: Objection sustained.

MR. WACKER: No more questions.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR. BURKOWITZ:

Q Now, Mr. Multhaupt, when you talk of a court or prosecutor you are referring, are you not, to cases of German habitual criminals?

A No, the proceedings themselves were conducted secretly, but it often happened that the prosecutor or the court would come and ask for prisoners and take them away as witnesses or something like that. I remember one case where the prosecution from Hamm came and asked for a prisoner, but I don't know whether he was to be interrogated as a witness or as an accused.

Q Then did you receive requests for information from courts or prosecutors concerning non-Germans?

A No, no, I never got that.

Q Now, in the case of non-Germans who were interrogated for alleged offenses and who were to be punished for such offense, that punishment would be based upon the report of interrogation and attached conclusion made by you, would it not?

A I didn't understand that.

Q All right, I will change my question. Now, in the case of non-German prisoners who had committed an alleged offense, that report would

not go to a court or prosecutor but would go to the Reich Security Main office, would it not?

MR. WACKER: I object to that question. I beg the prosecution to make clear when he is talking about the court whether he is talking about the record of interrogation or the final report attached to the record of interrogation.

MR. BERKOWITZ: If it please the court, the question, as stated, embraced both.

PRESIDENT: Due to the explanation made by the prosecutor, the objection of Dr. Wacker is overruled. Proceed.

A I have forgotten the question.

(Thereupon the reporter read the last question.)

A I don't know that; I never took care of the affairs of foreigners.

Q Well, wasn't your office charged with investigation of foreigners who committed alleged offences?

A No, usually the Gestapo took care of that. No, we didn't have to do with foreign affairs. I can only say that in this small town where I was, Bad Salzuflen, there were very few foreigners and if any cases of theft occurred we would turn over the records to the prosecutors.

Q Now, Mr. Hulthaupt, I am referring to your office in Flossenburg. Will you answer that question concerning Flossenburg.

A I already said that I didn't have to take care of any matters concerning penal actions which foreigners had committed.

Q Now, Mr. Hulthaupt, suppose a foreigner at Flossenburg had committed sabotage, would your office be charged with investigation of that alleged offense?

A Well, I don't know that. I never was confronted with such a case. Actually I didn't have to do with such affairs. I assume that the commandant of the camp would have assigned that case to a member

(Hulthaupt-Recross)

of the national police and Flossenburg belonged to the Gestapo District Nuremberg.

M. BERKOWITZ: No further questions.

PRESIDENT: Further questions by members of the court?

COLONEL SKIPLVEN: Yes, I have one, sir.

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL SKIPLVEN:

Q Who was it in your department that determined the color of triangle the prisoners would wear?

A I didn't see any triangles lying around there in our office when I was there and we didn't make any decisions in regard to who would wear triangles.

Q Do you know who did make those decisions?

A No, I don't know.

Q Did the prisoners wear triangles in Flossenburg?

A Part of them did; part of them didn't. I believe at that time they weren't so strict about wearing triangles, but I don't know who it was who made a decision about that and who made orders about that.

Q Well, wouldn't you know that, being head of the personnel department—wouldn't you have such records available?

A No.

Q Have you any idea who had those reports?

A I can't tell you. As I said, I was only there for a short time. I didn't have much interest in Flossenburg. All I was trying to do was get away from Flossenburg. Three or four days after I had arrived there I reported to the doctor sick, told him I was sick and made a request that I be sent away. I was sent away and then I had to come back again.

Q Were you in Flossenburg in April 1942?

A No.

QUESTIONS BY COLONEL SAYLY:

Q Why did you want to leave Flossenburg?

(Multiapt-Court)

A I didn't like the work there. There wasn't any police work suc as I know; it was merely administrative work; and by my very profession I am not an administrative man.

Q You want the court to believe that you never heard of any acts of sabotage by any prisoners during the time that you were at Flossenburg?

A No, I did not. At that time the only factory which was in operation was the Messerschmidt factory and that was still being built up. If I am not mistaken, there was only one hall built. And when I was there, there were very few outside camps. Most of them didn't get built until after I had left—I don't know how many were there.

Q Approximately how many prisoners were at Flossenburg camp while you were there?

A I can't tell you exactly. I estimate between three or four thousand.

Q You never had any difficulty at all with any of the foreign prisoners, is that it?

A Not that I know of; I didn't have anything to do with it.

Q Never heard of any trouble?

A No.

PRESIDENT: Further questions by members of the court? Apparently not. Defense? Dr. Wacker?

DR. WACKER: I just have one question.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What interrogations did you conduct, and what interrogations did the court officer conduct?

A As I said, I interrogated the prisoners with regard to matters which arrived there in our office, while the court officers—I don't know—I believe it was my predecessor Wassbender, because he was a

member of the Waffen SS; he took care of matters which were relevant to the Waffen SS.

MR. HACKER: Nothing further.

PRESIDENT: Further cross-examination?

MR. BERKOWITZ: Nothing further.

PRESIDENT: The court understands the defense is finished with this witness.

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. O'CONNOR: If it please the court, the defense at this time calls the accused Blomberg to testify in his own behalf.

PRESIDENT: Blomberg, the court understands that you desire to take the stand in your own behalf, is that correct?

ACCUSED BLOMBERG: Yes.

PRESIDENT: Proceed, Mr. O'Connor.

KONRAD BLOMBERG, an accused, voluntarily took the stand in his own behalf and testified through the interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q State your name.

A Konrad Blomberg.

Q How old are you?

A I will be forty-eight in two weeks.

Q Are you married?

A Yes.

Q How many children do you have?

A Five.

Q Where was your civil's home?

A My civilian home was in Bielefeld in Westphalia.

Q What was your civilian profession?

A I was an official of the criminal police since 1935.

Q What did you do before that?

A I belonged to the city police from 1920 until 1935.

Q Of that same city?

A I was in the same city, Bilefeld, after 1923. From 1920 to 1923 I was in the Ruhr territory, Wesel, on the Rhine River, and in 1923 I was transferred to Bilefeld.

Q What did you do after 1935?

A I was sent to the criminal police in Bilefeld on the 1st of April 1935.

Q And how long did you stay there?

A Until the end of February 1944 when I was transferred by order to Flossenburg.

Q By the order of whom?

A The order came from Berlin via Hannover. Hannover was our supervisory office and it came from there to Bilefeld.

Q Who handed the order to you?

A My chief, the supervisor of the criminal police Kasper. I had to be on my way within two days.

Q And where was he stationed?

A He was also in Bilefeld.

Q Were you a member of the National Socialist Party?

A No, I was not a member of the Party.

Q Were you a member of the SA?

A No, I wasn't that either.

Q Were you a member of the SS?

A No, I wasn't that either.

Q Were you a member of the Gestapo?

A No. I still have my official identification papers here from my last place of work.

(Blomberg-Direct)

Q Will you please describe to the court what military record, if any, you have.

A In the first World War I became a soldier in 1916 and I came to Windenhofen in Alsacia, and I stayed there for a quarter of a year and was trained in the artillery. And in January I was sent to the front in France. And I stayed there until the end. And I was released in March 1919 as a result of the demobilization.

Q What was the highest rank you achieved at that time?

A I was not promoted; I stayed a cannonier in the artillery.

Q Well, were you a private or a non-commissioned officer?

A I was an ordinary soldier.

Q Mr. Blomberg, please tell the court what criminal record you have.

A I was not on good terms with my chief in Bilefeld. I was not in the Party; I was not in the SA; I wasn't in anything. It was around January 43 when I had the following incident take place in Bilefeld: My chief gave me an order to interne an American Jewess who was living there. She was supposed to be interned. I was supposed to interne this woman five days before, and I did not do it because of the circumstances I found there. I wanted to let the woman be at liberty for two or three days. My chief came and noticed that and he gave me a written warning through the office of the Mayor. And they accused me of being made of the same material—of being the same kind of person as this Jewess.

Q Did you receive any punishment?

A I received a written warning from the chief mayor. And two or three months later I again had bad luck.

Q Tell the court about it.

A There was a number of English officers in a prisoner of war camp for officers in the eastern part of Germany, And that was made known to us one evening in a telegram which came from Berlin. I

personally received this telegram and I presented it to my boss immediately. And he didn't do anything about it. That evening I had duty at night and in the night another telegram arrived from Hannover from our supervisory office; and it concerned the same matter exactly. And because my chief in the evening had done nothing about the first telegram, I didn't bother to call him up in the night about the second telegram. And the next morning Hannover called me up on the telephone and asked what the boss had done about the telegram which had arrived from Hannover, and he didn't know anything about this telegram because it was still lying in the record book. And he really gave it to me then, and he put me before the SS police court in Düsseldorf, and because of this the SS court gave me four weeks arrest. The people in Bielefeld didn't want to punish me at all in regard to this matter.

Q What were you charged with before that court?

A Military disobedience; and I wasn't any soldier. And from that time on my boss really had it in for me. And so it happened at the end of February I got orders to report to Ploemsburg in the concentration camp.

Q What date was this?

A 1944.

Q On what date?

A I believe I left Bielefeld around the 20th of February—20th or 21st, during the night.

Q Will you describe to the court the circumstances surrounding your transfer to Ploemsburg?

A As I have already said, I received this order that I would be transferred to Ploemsburg and I had two days to get ready in and within two days I was already on my way. I asked what my job would be; what kind of work I would do there, and they said I would get a rifle and I would stand guard.

(Ploemberg-Direct)

Q Who told you that?

A My boss.

Q When you got to Flossenburg, to whom did you report?

A Hulthaupt, the witness who was just here, picked me up. I called him from Weiden on my way and told him I was coming and he came and got me. He was my predecessor.

Q And to whom did you report in Flossenburg?

A I reported to the commandant personally in the evening.

Q Who was the commandant?

A That was Lieutenant Colonel Koegel.

Q What, if anything, did he tell you when you reported?

A He told me that I was to take over the duties of Hulthaupt; that I was to relieve him; that Hulthaupt was to turn all his matters into my hands; and that Hulthaupt wouldn't be able to leave until I said that I was familiar with all the work there. And Hulthaupt left the beginning of March—perhaps the 3rd or 4th of March.

Q Did Hulthaupt instruct you in your duties?

A Yes, Hulthaupt and I discussed everything that went on there.

Q Now, I want you to explain in detail to the court just exactly what those duties were.

A The card index files and the records had to be kept in regard to each prisoner, and the written documents which came in, the correspondence, had to be taken care of; and work which concerned purely criminal matters also had to be taken care of. That was reserved for me, that is, in regard to identification matters as a specialty.

Q Did those comprise all your duties?

A They are the essential ones.

Q If you had any other ones, tell the court about it now.

A From month to month our duties became greater. When I got to Flossenburg the entire strength of the camp, including the outside camps, was between seven and seven and a half thousand, and in the summer it

constantly increased in number.

Q Did that give you different duties in Flossenburg?

A The correspondence became considerably greater.

Q I don't mean additional work. Did you have new duties to perform as the number of prisoners increased?

A No, we didn't receive new duties.

Q When you arrived in Flossenburg, who worked in the Department?

A There were three SS men there and three or four prisoners, I believe, one a photographer.

Q What were the nationalities of these employees?

A One was a Czech, the photographer was a Frenchman, and I believe the other was also a Czech.

Q Were those prisoners?

A They were prisoners, yes.

Q How many SS men worked there?

A Three.

Q Who were they?

A Oh, no, there were four--Kock, Schlundermann, Ertelen and Kuhlmann.

Q Did you employ any additional personnel after you got there?

A In the course of time when our duties became more numerous and we had more work to do I had to employ more people to do the clerical work.

Q Who were those people?

A I asked for various prisoners whom we could use for the work in our office and at the end I had ten prisoners and five SS people.

Q State to the court what the sex was of those employees.

A They were all males. We only had males in Flossenburg.

Q At any time while you were chief of the political department, did you ever employ any women in there?

(Blomberg-Direct)

A No, there weren't any women at all with us.

Q Were you present in the courtroom when the witness Prohaska testified for the prosecution?

A Yes.

Q Did he work for you?

A Yes, he was there when I got there. He worked there from the beginning to the end.

Q What were his duties?

A He took care of the card index files, he took care of transport matters, he would paste documents together, and he had to see to it that the documents which came in from outside stations were in order—took part in that and any matter which would come up.

Q Please explain to the court what your relations were with Prohaska with respect to any disagreements or troubles.

A We didn't have any friction at all. From the very beginning I laid great emphasis upon getting decent people. I, myself, would take a look at the people and then I would put in an application and ask for those particular people. I always was cooperative; I never had any friction. And with Prohaska I got along especially well. He always had it good during the day time; he scarcely knew that he was a prisoner.

Q While you were in Department 2 who was in charge of the interrogations and investigations?

A As far as I took part in interrogations and investigations, they came from the commandant's office—from the commandant.

Q Who did the interrogating?

A I personally conducted these interrogations inasmuch as they were sent to me personally.

Q Where did you do the interrogating?

A In my work room.

Q Did you ever do it any other place?

A No, I did it all there in my work room.

Q Do you recall the testimony of the witness Prohaska wherein he stated that you conducted interrogations in the arrest building?

A Yes, I remember that.

Q What do you have to tell the court about that?

A I never conducted one single interrogation in the arrest building. There wasn't even any interrogation room there. And the people who were at that time in the arrest building are all here; they can all back me up on that.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place at 1130 hours and reconvened at 1135 hours.)

PRESIDENT: Court will come to order. Mr. O'Connor, proceed.

MR. O'CONNOR: If it please the court, let the record show that the accused Hussfeldt, Fisbusch and Hurst have returned to the dock.

DIRECT EXAMINATION OF ACCUSED BLOMBERG (continued)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Blomberg, do you know whether investigations and interrogations were carried out in the arrest building by anyone other than you?

A I don't know that but I know that the leader of the protective custody department usually took care of penal matters as they affected prisoners in the camp.

Q Who was the protective custody leader?

A When I came it was a certain Fritsch or Fritscha, and he went away right after that.

Q Who succeeded him?

A I believe that the adjutant then represented him and for a long period of time there wasn't any leader of the protective custody department there; and in the summer for a few months there was somebody there again.

Q I want you to state to the court all of the various types of

interrogations that you took part in at Flossenburg.

A When incidents were reported from outside authorities the commandant would pass the train of events on into my hands. According to penal code, there were very few matters. They were mainly matters which concerned ordinary citizens.

Q Tell the court just what you did in these cases.

A In this train of events which was recorded I was told what they wanted to find out from the party in question. I had the prisoner come to me and then I would read that to him and show it to him and ask him what he thought about that. And then I would write down his statements. He signed them and I signed them. And when we went back I would send them off to the command post in question where they had come from. And the commandant signed this order that they would be sent back and then they would be sent away.

Q What was the nature of the report that you made other than the statements made by the prisoner?

A We didn't make actual reports; we called that interrogations that we made.

Q Well, did you add any comments of your own to the reports?

PROSECUTION: I object to counsel leading the witness, if it please the court.

PRESIDENT: Objection sustained.

INTERPRETER: The witness had answered "No".

MR. O'CONNOR: Do you want to move to strike the answer?

PROSECUTION: Yes, and I will ask that the witness be advised not to answer the questions so fast that an objection cannot be made. And I move that the answer be stricken, may it please the court.

PRESIDENT: The motion of the prosecutor is sustained. At the same time, interpretor, caution the witness that at the time of an objection, in other words, when the prosecution or defense rises, that that is an indication that there will be an objection.

(Whereupon the interpreter did as requested.)

Q Mr. Blomberg, what other types of interrogations did you conduct?

A You might say that the interrogations were the fewest in number, but there were proceedings of all kinds. My main activity consisted of recognition service work. I had to take care of two or three hundred Gypsies in the camp in regards to identification service. Almost every week I had somebody there who was arrested because he was using a false name and those kinds of cases consisted of my greatest work.

Q What did you do in cases like that?

A For example, when somebody had a false name we had to undertake a very complicated proceeding which nobody can understand who is not a specialist. Up until December 1941 I had good success with that and then I had to stop this activity because I couldn't take care of my communication work. And every few days in that time I came across somebody who was using a false name.

Q Did you interrogate those prisoners?

A Yes, I had to.

Q State to the court the nature of those interrogations.

A When there was somebody who was using a false name, you had to have a certain amount of tact at your finger tips in order to carry out the interrogation. And you had to go into great detail about the party involved. And you had to investigate other people who knew him, perhaps members of his family; and in regard to that we had to use the official office of the criminal police.

Q After you had conducted such an interrogation, to whom did you send the report?

A In these cases I would send them to the local police authorities in question in order to pick up the people necessary. There would be photographs made and we would send photographs as well as finger prints to Berlin. And then we had to sit and wait until the various authorities

would report what they had to say about the reports which we had made. They had to report whether the statements which the accused had made were correct or not. I remember one case where the party in question had used a false name four or five times.

Q Were these people that were accused of such charges prisoners or people from the outside?

A No, they were prisoners who had been sent to the camp already. Most of them were foreigners.

Q What were their nationalities?

A I know that I ran across such matters in regard to Frenchmen, Poles and Danes. We didn't even bother to do that in regard to Russians because it was hopeless, although there were a number of Russians there who were using false names.

Q What was done to these prisoners who were so interrogated?

A The prisoners were brought to me and I would interrogate them in regard to personal data and then they were sent away.

Q Where were they sent?

A Back to camp again.

Q And what was done to them?

A Nothing at all for the time being.

Q Well, eventually what happened, if you know?

A They went back to their work just as always.

Q During the time that you were in Flossenburg, were there official executions?

A Yes.

Q I want you to explain to the court just what the political department, or Department 2, had to do in connection with official executions.

A We didn't take any part in them at all. The only thing that happened was that after the execution had been carried out and was finished the commandant's office would send word down to the political

department that the execution had been carried out and we closed the books. Besides that the main office of the national security service and the authority which had sent in the report had to be notified about it. And that was done by Department 2, and that was all.

Q Do you recall the testimony of the witness Famisak?

A Yes, I remember that name.

Q Do you recall his testimony that you were present at official executions?

A Yes.

Q What do you have to tell the court about that?

A All I have to say is that that isn't true. I don't know this man and he doesn't know me. He stated that I was there; that Schreiber was there and Mohr. I never saw Schreiber in my life until he was sitting here in Bunker 1, and Mohr will also back me up there when I say that that never was the case.

Q Now, do you recall the testimony of a witness who testified that you read an official order of execution and was present as an official at an execution in Johanngeorgenstadt?

A Yes, I remember that.

Q Please explain to the court what part you took in that execution.

A I had to read the verdict.

Q Start at the beginning. What part did you play in it?

A Two days before the execution took place the commandant ordered me into his office and said that I have to go to Johanngeorgenstadt; there is an execution to be carried out there.

Q Who was the commandant?

A Lt Colonel Koegel.

Q Go ahead.

(Blaeberg-Direct)

A And he said that I would be able to leave by automobile the next day just before noon. And just as I said goodby to him he gave me an execution order and a special document for the commando leader. In the evening I arrived in Johanngeorgenstadt and at the railroad station I met Schwanner. We discussed the matter briefly and the next day the thing was carried out. In the morning between eight and eight-thirty in the office of Schwanner we discussed the matter again and I read the whole thing to him, so that he would know what was going on. Schwanner saw to it that a doctor was there, and the execution was carried out. I read the verdict out loud. The execution order was interpreted into various languages, and the whole thing was taken care of at the end of ten or fifteen minutes.

Q Who was present at this execution?

A It was written there in the execution order that the execution would be public and that a certain number of prisoners would have to fall in and observe it; and a report had to be made about that to Berlin after it was finished.

Q Do you recall the name of the person that was executed?

A I heard his name here for the first time—Fedorenko. In Johanngeorgenstadt I saw him for the first time and I didn't know him at all.

Q Had you interrogated him prior to the execution?

A No, I didn't see him until I reached Johanngeorgenstadt.

Q Now, you stated that you read the verdict to Fedorenko. By whom was that verdict signed?

A The execution order came from Berlin from the main office of the National Security Service.

Q By whom was it signed, if you know?

A I can't remember the signature any more. I only know that it was printed there; that the execution was to be carried out upon an

order of Himmler.

Q What else did you do at that execution?

A I didn't do anything else at all.

Q Now, Blomberg, the prosecution has introduced testimony to the effect that at that execution the accused Schaerner drew a gun. Do you recall that testimony?

A I didn't see anything about that. I was standing there in front of the coal bin, together with the doctor, and if anything like that had occurred I would have seen it.

Q Well, did it happen? Did he draw a gun?

A I didn't see any.

Q Was there any other official execution that took place either in Flossenburg or any of the out camps with which you had anything whatsoever to do?

A No.

Q Now, I call your attention to the testimony of the prosecution to the effect that you, sometime in 1944, interrogated a Russian officer in your office and you made him strip and that you put a lighted cigarette in his stomach—do you recall that?

A I can only call such a thing a complete lie. I never interrogated anybody in that barracks there where the dental clinic is.

Q Did you ever have a woman working in your office?

A No, I never possessed a female employee; nobody like that ever worked in our office. Our place of work was in barracks 7, and in that barracks where the dental clinic was nobody could see what was going on where we were working; it was impossible. And besides that the witness, when he appeared, didn't even recognize me, but he identified my neighbor, Berger, as Blomberg, and it wasn't until they had called his attention to that that he pointed me out.

Q Will you step over to the chart, please, and point out where your office was. (The witness did as requested).

A This barracks here, which is marked with a 6. That was our

working barracks. At that time it had the number 7. (Indicating).

MR. O'CONNOR: Let the record show that the witness has pointed to a block wherein the figure 6 is placed in a diamond shape, on Prosecution Exhibit No. 5.

Q Is that the building in which you conducted interrogations?

A Yes, in the first third of the barracks. They were our working offices.

Q Now, please point out where the dental clinic was.

A The dental clinic was in this barracks in those four rooms here at the end (indicating). In the middle was a hallway and on each side were two rooms.

MR. O'CONNOR: Let the record show the witness has pointed to a block containing the figure 17 in diamond shape, on Prosecution Exhibit No. 5.

Q Now, state to the court whether or not a person could look out of a window in the dental clinic and see into your office.

A No, that was impossible. This barracks here (indicating) was located much closer to the administrative building; there was scarcely half a meter's distance between the two buildings, and you could hardly walk through there. And that was a building which contained a lot of administrative material such as furniture and desks and things, and you couldn't see.

Q Who was your commanding officer when you were in Flossenburg?

A The camp commandant Koegel.

PRESIDENT: Court will adjourn until one-thirty this afternoon.

(Whereupon the court recessed at 1200 hours until 1330 hours.)

Dachau, Germany,
December 2, 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Colonel Denson, and with the exception of Mr. Pinter, who is absent on business of the prosecution, all of the personnel of the defense are present with the exception of Dr. Engelhorn, who is absent on business of the accused, and all of the accused are present with the exception of Losch, Gewalt, Hausen, Lipinsky and Neye, who are ill, and Dr. Schmitz, who is conferring with counsel. The interests of the accused who are absent are being taken care of by their counsel.

If there are any spetators in the courtroom who are expecting to be called as witnesses, will they please leave the courtroom.

(Mr. Berkowitz then made the following announcement):

MR. BERKOWITZ: May the record show that Colonel Denson has come into the courtroom.

PRESIDENT: Continuation of direct examination, Mr. O'Connor?

MR. O'CONNOR: If it please the court.

KONRAD BLOMBERG, an accused, resumed the stand and testified further through an interpreter, as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Blomberg, before the recess you testified that the commandant of the camp at Flossenburg at the time in question was Koegel, is that correct?

A Yes, that's correct.

(Accused Blomberg - Direct)

Q When you made interrogations in the political department at Flossenburg, did reports of such interrogations go to the commandant?

PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. FOLMER:

Q To whom did you send reports of interrogations that you conducted in Flossenburg?

A It all went through head quarters. I got all the papers from the commandant and I had to hand it back.

Q Can you tell the court what he did with those reports?

A They were sent to the authorities which had admitted people.

Q Was any notice given you after you submitted such reports as to what happened to prisoners that were so interrogated?

A No, I didn't hear about it.

Q Blomberg, please explain to the court what association or connection you had with the Gestapo during the time you were in Flossenburg?

A No connections.

Q Now, the witness Proimska testified in effect that many prisoners were sent to Flossenburg who were already sentenced to be executed. Do you recall that?

A Yes, mainly.

Q Tell the court what your duties were in connection with those prisoners?

A I had nothing to do with them. These prisoners were sent to the camp, their papers went to Headquarters from the authorities which had admitted the prisoners, and in these papers a special treatment

for these prisoners was requested. For each prisoner who was being admitted the Reich Security head office had to submit an order of arrest.

Q Now, what do you mean by special treatment?

A Execution, death sentence.

Q When you say it was requested, who requested it?

A The Gestapo authorities admitted these people for this very purpose to the concentration camp, and submitted their reports to Berlin, and Berlin decided whatever it was to do.

Q Were such prisoners interrogated when they came to Flossenburg?

A No, that had happened already previously because they were admitted to the concentration camp for the reason of their deeds.

Q Well, did you carry such prisoners in the camp strength on your books?

A As soon as they came into the camp they received a file card and a file.

Q What were the nationalities of those prisoners that came into the camp already sentenced to be executed?

A So far as I can recall those were nationalities of all kinds, including Germans.

Q Now the witness Irohaska was asked by Mr. Bernedis on direct examination if there were any prisoners executed after an interview by Blemberg where Blomberg had not sent the records to the command section with his recommendation for execution, and the answer was "Yes". What do you have to say to the court about that?

A Irohaska can't give you any information about this because anything that was connected with executions was secret. Whenever a prisoner was

admitted and the Gestapo requested special treatment for him, his papers were locked up in my safe and no one saw them, and then we waited until we received further orders from Berlin.

Q Did anything else happen?

A I don't know at the moment.

Q In cases where there were official executions in Flossenburg, during the time you were there, did you receive any notice from anyone as to when the executions would take place, or who was to be executed?

A No, I was not informed about that. After the execution had been carried out we received the order of execution to be put on file, and a report was sent to Berlin.

Q By whom?

A The adjutant, and once in a while the roll-call leader, Kuebler, would take care of that. These execution orders went from hand to hand.

Q Well, going back to the execution at Johanngeorgenstadt about which you testified, will you tell the court why this Russian, Fedorenko, was condemned to death?

A So far as I can remember the reason was that he had broken into houses several times during several nights, and because his actions showed brutality, public execution had been ordered.

Q Well, when you read the sentence to him prior to execution, did that order contain a statement of charges against him?

PROSECUTION: May it please the court, I object to counsel leading the witness.

PRESIDENT: Objection sustained.

CROSS-EXAMINATION BY MR. POCHER:

Q Can you state to the court in detail just what the order contained?

A The following were the contents of the execution order: The personal data, then the violation he had committed and the reasons, and then his conviction and the reasons for that were given, and the reasons why he should be executed, and it also read that a report would have to be made to Berlin after the execution had been carried out.

Q Mr. Blomberg, please explain to the court what relations or associations you have at the present time with the Bilefeld police department?

A I have no connections at the present time, but I know from my wife that the police department, the new police department there has twice gotten into contact with the American authorities in Dachau.

Q Concerning what?

A They want me back because they don't have any man.

Q While you were in Flossenburg in charge of Department 2, from whom did you receive your salary?

A From the authorities in my community, Bilefeld.

Q How often did they pay you?

A Every month.

Q Did you receive a salary from any other source?

A No.

Q Mr. Blomberg, there hasbeen testimony in this case that you walked around by the crematory often and were carrying a rifle. What can you say to the court about that?

PROSECUTION: I object to that, may it please the court, as being a misstatement in the record.

PRESIDENT: Bill the reporter read the question.

(Whereupon the reporter read the last question.)

MR. O'CONNOR: I see what the prosecuter means.

QUESTIONS BY MR. O'CONNOR:

Q There has been testimony, Mr. Blomberg, to the effect that you were seen walking to the crematory and that shortly after that a number of Russians were executed after they had been led to the crematory, and at this time while walking to the crematory, you were carrying a rifle. Do you remember that?

A I never carried a rifle in Flossenburg. No one ever saw me with one.

Q Did you ever have any official business with the crematory?

A Yes, I had to go there off and on; I had to check the book, the record of cremation.

Q What else did you do?

A I didn't have anything to do other than that. This book, this record, had to check with our records in the vital statistic office. I received this order in the summer of 1944 when the commandant had found out about my irregularities.

Q Now earlier in your testimony you stated that you had your identification card that you carried around in Flossenburg. Can I see it please?

A (The witness handed a card to counsel.)

MR. O'CONNOR: I ask that this card be marked Defense Exhibit No. 62 for identification.

(The document referred to was marked Defense Exhibit 62 for identification.)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Blomberg, I hand you this card which is marked Defense

MR. O'CONNOR: I see what the prosecutor means.

QUESTIONS BY MR. O'CONNOR:

Q There has been testimony, Mr. Blomberg, to the effect that you were seen walking to the crematory and that shortly after that a number of Russians were executed after they had been led to the crematory, and at this time while walking to the crematory, you were carrying a rifle. Do you remember that?

A I never carried a rifle in Flossenburg. No one ever saw me with one.

Q Did you ever have any official business with the crematory?

A Yes, I had to go there off and on; I had to check the book, the record of cremation.

Q What else did you do?

A I didn't have anything to do other than that. This book, this record, had to check with our records in the vital statistic office. I received this order in the summer of 1944 when the commandant had found out about my irregularities.

Now earlier in your testimony you stated that you had your identification card that you carried around in Flossenburg. Can I see it please?

A (The witness handed a card to counsel.)

MR. O'CONNOR: I ask that this card be marked Defense Exhibit No. 62 for identification.

(The document referred to was marked Defense Exhibit 62 for identification.)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Blomberg, I hand you this card which is marked Defense

Exhibit 62 for identification and ask you what it is?

A That was the last identification paper which I had at my last place of work.

MR. O'CONNOR: At this time the defence offers this card that has been marked Defense Exhibit 62 for identification.

PRESIDENT: The court understands that you are offering this in evidence at the present time?

MR. O'CONNOR: Yes.

PRESIDENT: Any objection by the prosecution?

PROSECUTION: No, sir.

PRESIDENT: Subject to objection by any member of the court, the court will receive in evidence Defense Exhibit #62 and give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit #62 for identification was then received in evidence as Defense Exhibit #62, and is attached hereto, and a part of the record.)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Blomberg, I hand you Defense Exhibit #62 and ask you to read what appears thereon?

PROSECUTION: I object to that, may it please the court, on the ground that the document itself is the best evidence of the matter contained therein. The court can find out for itself what is on that document. Such matters have already been previously discussed in other sessions.

MR. O'CONNOR: May it please the court, I do not know how the court can find out for itself what is on that document except by answer to my question.

PROSECUTION: I suggest, may it please the court, that we have a translation made of it.

MR. O'CONNOR: I cannot get a translation of a photograph.

PRESIDENT: The court desires to expedite this matter. The objection is overruled.

QUESTIONS BY MR. O'CONNOR:

Q You may read the card.

A (Reading from Defense Exhibit #62):

"Official pass No. 66. Good until the 1st of January 1946."

And there in the corner in big print the year

"1945."

That is the year.

For Comrade Blomberg, Chief Assistant of the Criminal Police."

PRESIDENT: Just a minute. In order to expedite this matter the interpreter will read it.

QUESTIONS BY MR. O'CONNOR:

Q Whose picture appears thereon?

A That is mine.

(As directed by the President, the interpreter then read from Defense Exhibit #64):

INTERPRETER: (Reading)

"Chief Assistant of Criminal Police with the Criminal Police outside command post at Bielefeld, Berlin.

"The Chiefof Security Police and the Security Service."

There is a signature here which I cannot make out.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Blomberg, do you have a copy of the orders you received when you were ordered to report to Flossenburg?

A No, I didn't receive the order in my own hand. The order

stayed with my personal effects, my personal data in Bielefeld.

Q Who has these orders now?

A My papers must be in the new command post.

Q Where?

A In Bielefeld.

MR. O'CONNOR: I would like to put in the record that there is more written material written on the back of Defense Exhibit No. 62 which, if it please the court, I will ask the interpreter to read.

INT RPRETER: This statement reads:

> "The owner of this official paper is allowed to carry a gun and allowed to buy the necessary ammunition for this gun."

QUESTIONS BY MR. O'CONNOR:

Q Mr. Blomberg, have you ever been interrogated by any member of the prosecution staff or any other American authorities?

A Yes, I have been repeatedly interrogated.

Q By whom, do you know?

A First of all, last summer, in June, I was interrogated by the CIC in Hersbruck.

Q What happened on that occasion?

PROSECUTION: I object to that, may it please the court, on the grounds that it is immaterial and irrelevant to the issues of this case.

MR. O'CONNOR: May it please the court, either a prosecution witness or a court witness testified that they had considerable trouble getting a statement out of Blomberg until Mr. Paul Guth interrogated him. He was the only one that had any success.

PROSECUTION: So what--may it please the court--nothing of this nature about Blomberg has been introduced before this court at all, and I

submit, whatever transpired by the CIC last June has absolutely no bearing on the issues of this case. This is no more than an effort on the part of the counsel to try to draw a red herring before this court.

MR. O'CONNOR: May it please the court, there is nothing at all to prevent the prosecution from presenting a statement, if they have one, in rebuttal. Now, I will ask the witness a question if he had ever made a statement before the prosecution if you wish it.

PRESIDENT: Proceed.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Blomberg, did you ever sign a written statement for any member of the prosecution?

A Yes.

Q And how many times were you interrogated prior to the time you signed it?

A Repeatedly; I can't tell you exactly; five or six times perhaps.

PRESIDENT: The objection of the prosecuter is overruled.

QUESTIONS BY MR. O'CONNOR:

Q Now, will you please tell the court what happened at each of these interrogations?

A Shall I start with the one in Hersbruck?

Q Start at the beginning.

A Last year at the beginning of May I went to Hersbruck, and I believe it was the 21st of June when the CIC asked for me, and there they made the most ridiculous statement to me and I constantly denied what they said; and the second or third time the CIC brought in witnesses I had to undress—take off everything except my trousers—and I was mis-

treated in a rough way. You can't really say that my treatment was rough. It was more than that—it was according to our conception, cruel. They broke several ribs in my body. They broke my jaw bone, and a lieutenant of the CIC smashed my lips with his hand on an old disfigurement there, and my face can be traced to this mistreatment; and the main person who did these beatings was this Toermer, who appeared here both as a prosecution and defense witness. And on the 29th of December 1945 I was brought to Mr. Berkowitz for the first time for interrogations. Mr. Berkowitz carried on a conversation with me for about two hours and it seemed that at the beginning everything was going fine, but as a result of that I was put into bunker 1 in solitary confinement, and I was brought back to Mr. Berkowitz for interrogation two or three times at time intervals of eight or nine days.

Q How long did you stay in solitary confinement?

A I stayed there until the end of March; and at that time the handyman Herbert said, "That is enough for that, let's get out of there." They didn't give me any food and I went so hungry that I almost went crazy. I was so weak that I could hardly stand, and lieutenant Paul demanded that I make 200 bends of the knee.

Q Who is lieutenant Paul?

A Lieutenant Paul Guth; and finally I collapsed. If I had used the methods which lieutenant Paul Guth used on me in Germany at any time I would never get out of it. In one interrogation they brought a man in and confronted me with him and maintained that I had beaten him. I never knew the man and he never knew me either, and five or six times they sent people who were supposed to work me over and make me confess

(Accused Blomberg - Direct)

that I knew about the fact that people had been killed in Flossenburg by means of injections. This man they sent in had some information about what was going on, but he didn't know anything about a concentration camp. I found that out during the first ten minutes. And my name was mentioned once when there was a major sitting in the witness chair, and this major maintained that he had interrogated various accused here or at least sworn them in, and definitely me among these. I must say here, and Mr. Berwewitz will back me up if he wants to tell the truth, that Mr. Berwewitz went and sent for Paul Guth and Paul Guth gave me the oath.

Q Now, on which one of these occasions did you sign the statement?

A I signed a statement after I had been once or twice with Paul Guth.

Q Were any of the other interrogations taken down, or did you sign anything else other than that one statement?

A No, I didn't sign anything else. There wasn't anything else put before me to sign.

Q Do you have anything else you want to tell the court about which I have not asked you?

A The only thing that I could tell the court if the court is interested, that is, in regard to these final reports—the conclusions. Only I could tell you what the witness Multhaupt said about that.

Q What reports are you referring to?

A I am talking about the reports made after interrogations had been carried out. This witness, Multhaupt, said that once in a while

a final report, a summary report, would be made.

Q Well, go ahead and explain it to the court.

A Where I was working it was forbidden to make these final reports because the final report contains the same material as the interrogation, and the court can see on the charge sheet exactly what the accused has been accused with, and what the accused has said to that. For that reason you don't need any extra report.

Q Do you have any other explanation to make?

A Not for the moment.

Q. COMMON: That is all, sir.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

MR. COMMON: If it please the court, Mr. Acker advises me that he wishes to question this witness on behalf of the accused Pasiczek.

PRESIDENT: Mr. Acker.

CROSS-EXAMINATION BY MR. ACKER:

Q Mr. Blumberg, you mentioned the name Paul Toerner. When did you have anything to do with Paul Toerner?

A I believe that was the 1st of June in Herbruck.

Q What job did Toerner have at that time.

A I saw that Toerner got two cans of meat every day from the kitchen. One contained noodles, I believe, and the other one biscuits. It was not that by order of the CIC. People trapped about that. Other people have brought 50 pages, written pages to the CIC about the conditions

(Cross-Examination - Direct)

in the concentration camp, and others again have brought 40 pages. This was camp talk in Hersbruck.

Q Mr. Blemberg, I want to know what duties Toermer performed at that time?

A Toermer was present and he had to beat me in the presence of this American captain—CIC man.

Q Did he have other duties outside of beating?

A I didn't see anything else or didn't hear anything else.

Q Was he present during the interrogation?

A No, he was called in later.

Q For what purpose was he called in?

A As I said they accused me of the most outrageous things, and Toermer was called in for being some sort of prosecution witness against me.

Q And what did Toermer do when he was called in?

A He acted as if he had been the main hero of the camp and had beaten everything to the ground.

Q When did he beat you?

A That was there on some morning.

Q Did he do that on his own or did he get orders?

A No, there was an American captain and two other officers in there They called them in and then the beating started.

DR. ZACKER: No further questions.

PRESIDENT: Cross examination? Colonel Hanson.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Now Blomberg, you were interrogated by Mr. Bernowitz in

January 1946, is that correct?

A Yes, January.

Q And in January you say you went into solitary confinement and remained there until the end of March, is that correct?

A No, that was the 29th of December already.

Q All right then, from the 29th of December until the end of March you were in solitary confinement, is that correct.

A Yes, that is correct.

Q And at the end of March you were taken out of solitary confinement and were interrogated by Lieutenant Paul, who made you do 200 knee bends, is that correct?

A No, that was the beginning of February that Lieutenant Paul called me and wanted me to do 200 knee bends, but I didn't do it. At that time I was too weak already; I could hardly stand up.

MR. O'CONNOR: If it please the court, I would like to have some kind of showing in the record that the witness is referring to lieutenant Paul Guth. The court, I believe, will be cleared up by a question to the witness asto who he was.

PROSECUTION: May it please the court, this is cross examination. Counsel, I think, has been here long enough to know what that is. The court will notice he has already asked the witness on his direct examination, after the witness has referred to lieutenant Paul, a question concerning lieutenant Paul Guth, and I think the record will so show, and I object to the counsel interrupting in the manner he is so doing.

PRESIDENT: The objection of the defense counsel, Mr. O'Connor, is sustained. The objection of the prosecutor is overruled. If the man's name is Guth let us so indicate it.

(Accused Blomberg - Cross)

PROSECUTION: May it please the court, the witness has referred to this man as Lieutenant Paul. I am using the words of the witness, that is what I am using.

PRESIDENT: Mr. Prosecutor, the court does not want any misunderstanding of the testimony that comes before it.

PROSECUTION: I am using the language of the witness, and if there is any explanation it is up to the person who makes that misunderstanding to clear that up.

PRESIDENT: Mr. Prosecutor, the matter was clarified by a later question of the defense counsel, and was so indicated, and the court understands that the man's name is Cuhh.

PROSECUTION: It is already there, and if the witness so understands the name and knows him as Lieutenant Paul, with the prior explanation of Lieutenant Paul being Lieutenant Paul Cuhh I submit that it is far better to keep it in the language of the witness himself rather than using further explanations of counsel!

PRESIDENT: The court does not agree with that at all because it has been clarified that the witness understands this particular person in question to be Lieutenant Paul Cuhh. The court will state further, Mr. Prosecutor, if there is any question as to the identity of this particular individual, the court will give you an opportunity to clarify it.

PROSECUTION: I have never questioned the identity. I think the counsel on that seat knows there was no question of identity, and he knows the court knows about it.

(Accused Blomberg - Cross)

MR. O'CONNOR: In that case I think there is no argument about it.

PRESIDENT: The court directs matters of personalities be excluded from the case. The court will be closed.

(Whereupon the court was closed at 1420 hours.)

(Whereupon the court was opened at 1425 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel who were present before the court closed are now present.

PRESIDENT: All right. Proceed with the cross examination, Colonel Henson.

QUESTIONS BY PROSECUTION:

Q Now, Blomberg, when you went before Lieut. Smith and you said that he demanded that you make a note of the knee—is that correct?

A No, at a later time, not the first time.

Q Well, was it about the middle of February that you had to make these knee bands?

A As I stated, I did not make them. I did not have to make them. I was supposed to do them.

Q So you never made any of them, is that correct?

A No, I didn't do any.

Q And this second time that you were there, that was during the middle of February?

A That could be correct.

Q Well, was it nearer the 1st of March?

A I was several times with Lieutenant Paul Guth, three or four times, with the interruption of a few days.

Q I am talking about the time that you were asked to make these knee bends, and when you made the statement. What was the approximate date that that took place?

A I assume it was the middle of February, around the 15th, but I can't give the exact date.

Q And you did make the statement about the middle of February, is that correct?

A This statement was taken when I was with Lieutenant Guth for the last time; I believe it was the end of February.

Q The end of February; and you signed a statement in your own handwriting, is that correct?

A Yes.

Q The matter that was contained in that statement was the truth, was it not?

A Yes, that was the truth.

Q At the time you made that statement, you made it freely and of your own accord, did you not?

A The German prosecutor, Dr. Leiss, formulated it and I signed it by order of Lieutenant Paul.

Q You signed it because it was the truth, did you not?

A Yes, it was correct.

Q You only signed one statement, is that correct?

A So far as I can remember, two pages.

PROSECUTION: I hand the reporter a document and ask to have it marked Prosecution Exhibit No. 63 for identification.

(Blemberg - Cross)

(The document referred to was marked Prosecution Exhibit No. 83 for identification, as to each of two pages.)

MR. O'CONNOR: May I see it, please.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court reconvened in place.)

PRESIDENT: The court will come to order.

QUESTIONS BY PROSECUTION:

Q Blomberg, I hand you a document which has been marked Prosecution Exhibit No. 83 for identification and ask you to state whether or not that is your name at the top of the page, and if it is in your own handwriting?

A Yes.

Q And on the second page--I will ask you to examine that and state whether or not this is your own handwriting on the second page of the document marked Prosecution Exhibit No. 83 for identification?

A Yes.

Q Is this document marked Prosecution Exhibit No. 83 for identification your statement?

A It can't be correct.

Q Did you make that statement?

A There is something wrong here. I never stated anything of that nature. Something like that never happened.

Q That is your signature on the top of the page, is it not?

A Yes, that is my signature. There is something wrong here.

Q These are your initials down here, are they not?

A Yes, I did that separately.

PROSECUTION: May it please the court, we offer at this time

(Blomberg - Cross)

the document marked Prosecution Exhibit No. 83 for identification, in evidence. It has been identified as having been signed on the front page with his initials and full signature, and the second page has been identified as having been written in his own handwriting.

PRESIDENT: Any objection on the part of the defense?

MR. O'CONNOR: I have no personal objection except that the witness has testified as to how it was obtained. If the court does not think that it was obtained under duress, I have no objection myself.

PROSECUTION: He has stated that it was the truth and that he gave it voluntarily.

PRESIDENT: Do you wish to make any further statement, Colonel Jensen?

PROSECUTION: No, sir.

PRESIDENT: Anything further, Mr. O'Connor?

MR. O'CONNOR: No, sir. The witness has testified as to how it was obtained, and the court must rule whether or not it was a free and voluntary statement.

PRESIDENT: The court will be closed.

(Thereupon the court was closed at 1440 hours.)

(Thereupon the court was opened at 1445 hours.)

PROSECUTION: May it please the court, let the record show that all the personnel who were present before the court closed are now present, except Mr. Hall, who is absent on business of the accused.

PRESIDENT: Prosecution Exhibit No. 83 will be received by the court in evidence and given such weight as the court sees fit.

(The document heretofore marked Prosecution Exhibit No. 83 for identification as to two pages was then received in evidence as Prosecution Exhibit No. 83, is attached hereto, and a part of the record.)

(Blomberg - Cross)

QUESTIONS BY PROSECUTION:

Q You made the statement on the 19th of January, did you not?

A I thought it was February. That is not correct either.

Is this in your own handwriting that this statement was made on the 19th of January 1946?

A That is my handwriting. There is something wrong.

PROSECUTION: (To Interpreter) Will you read that statement, if the court please, Prosecution Exhibit No. 63.

PRESIDENT: The court will take a half hour recess.

(Thereupon the court recessed at 1450 hours.)

(Whereupon the court reconvened at 1535 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Dr. Engelhorn who is absent on business of the accused; all the accused are present with the exception of Loach, Oswalt, Lipinski and Wodak who are ill, and Schultz who is conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel.

Any spectators in the court who expect to be called as witnesses in this case will please leave the courtroom.

KONRAD FLOMBERG, an accused, resumed the stand and testified further through an interpreter as follows:

PROSECUTION: I hand the interpreter a document marked Prosecution's Exhibit 83 and ask him to read it in German and English, please.

(Whereupon Prosecution's Exhibit No. 83 was read into the record in German, followed by a reading in English, as follows:)

"I, Flomberg, Konrad, born 18 December 1898 in Bielefeld, declare the following:

1. Concerning applications, recommendations for executions, the following channels had to be followed: I determined the facts or if they had not been determined by me but by some other authority, took them from them. Then, whenever the power to punish on the part of the camp commander was not sufficient, I recommended execution after I had talked to the camp commander and signed it. After I had signed the recommendation I gave it to the camp commander. He would sign it and would return it to me so it could be sent to the Reich Security Head Office. I then relayed the recommendation. I recall one special case where I drew up such a recommendation and after I had signed it and after the camp commander had signed it, I relayed it to Berlin. This was a case concerning a prisoner who had beaten a foreigner, beaten to the ground, a foreigner working on an outside detail.

2. Concerning execution orders: The following were the channels, without those no execution was possible: The order of the execution from the Reich Security Office in Berlin went to Section 1 P, the camp adjutant; from him to Section 2, the political section of which I was

in charge and by so it was sent to Section 3, to the Protective Custody Camp so that the execution could be carried out. When the execution was carried out I received information from the Protective Custody Camp. After that I would make a report that it had been carried out and I gave this report to the commander. He signed it and returned it to me so it could be relayed to Berlin. I then sent this report to Berlin.

3. It was clear to me that these executions were not based upon decisions made by any court but by decisions made of administrative authorities. It was the Reich Security Head Office and no court was involved. Mainly, the one who should be executed or who was to be executed, was never questioned.

4. I admit that I have thrown things at prisoners during the interrogations while I was excited and that I have mistreated.

signed Konrad Blomberg

This declaration has been wrote by me in my own hand, Dachau, Germany, 19th of January 1946, voluntarily and without duress and I signed it after I read it. It contains information which I have given without having been asked for it and it is immediate information. I swear by God The Almighty that I did not say anything but the pure truth: that I did not add anything or delete anything. I did not think it necessary to make any changes.

Konrad Blomberg"

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Now, Blomberg, you have been a police official, have you not, since 1920?

A Yes.

Q After you came to the Political Department in Flossenburg, is it not a fact that you made reports to Department 4 of the Reich Main Security Office?

A The secret police, Gestapo, in Berlin was the Reich Security Office in Berlin.

Q Answer my question, please.

A The reports that the executions were carried out were sent there.

Q And you also sent to Department 4 of the Main Security Office in Berlin reports concerning punishments that were inflicted on prisoners, did you not?

A No, I only worked on these execution matters, other punishment did not concern me.

Q Who was it that received these reports of punishment that were inflicted in Flossenburg?

A Section 9.

Q Department 4 was the Gestapo, is that correct?

A The Office of the Secret State Police within the Reich Security Main Office.

Q What punishment did a prisoner receive when it was found that he was operating under a false name?

A He was arrested for a few days by order of the Commandant and that was all, no other punishment.

Q Is it not a fact that while you were there at Flossenburg you knew a man by the name of Kierzmann?

A Kierzmann was the administrative chief in Flossenburg.

Q Kierzmann had a woman who acted as secretary there in his office, did he not?

A No, she did not work as a secretary.

Q What did she work at?

A Not at all, she didn't work at all, she had a small child.

Q What did she do then?

A I never saw her work in the camp.

Q I am not talking about Kierzmann's wife. My question to you is this - is it not a fact that there was a woman who worked there in Kierzmann's office?

A I didn't get there very often but I never saw a woman in Kierzmann's office. Three or four women would work around the offices of the administrative officers during the winter.

Q And Grechi was one of these women, was she not?

A I don't know the name; I don't know.

Was she an SS woman or a civilian?

A I don't know her, I can't say anything about her. I don't know who she is.

Did she wear a uniform or civilian clothes?

A There were three girls, I believe, in the Signal Section. They were uniformed, the others did not wear uniforms.

You do not know whether Frau Krechi wore a uniform or not?

A No, I don't know her by name.

Were there any other representatives of the Gestapo there at Flossenburg during the time that you were there, stationed permanently there?

MR. O'CONNOR: If it please the court, I object to the use of the word "other" in that question. There is no evidence in this record there was anybody else.

PROSECUTION: I withdraw the question then.

QUESTIONS BY PROSECUTION:

Were there any representatives of the Gestapo stationed permanently at Flossenburg?

A No.

In other words, the business that the Gestapo wanted transacted there at Flossenburg was transacted by you, is that not a fact?

A Those were exceptional cases that I would have to do anything, any written work for the Gestapo.

Will you answer my question, please?

A There were so many admissions that there is the possibility of a case coming from the Gestapo having been among these things. I had to report the escapes to the Gestapo, also, escapes of the people they had admitted.

In other words, you made your reports to the Gestapo, is that correct?

A If necessary, yes.

When a man was up for release you reported that to the Gestapo, did you not?

A No, the Reich Security Head Office did not want that and I know one case that the commander did something for a man that he wanted released and that he was reprimanded severely.

You mean once a man got in Flossenburg he was never released, is that correct?

A Of course he could be released. He always released there ten to twenty a week.

Did you not report these released to the Gestapo?

A No, that is not correct. It is the other way around.

To whom did you report the release?

A After the release we would report to the Gestapo and the Reich Security Head Office that the man had been released, but releases, orders for release, came from the Reich Security Head Office. Dr. Mischdorf was chief of that section.

Q Is it not a fact, Flossenburg, that the heads of the political departments in all the other concentration camps were members of the Gestapo except Flossenburg?

A No, they all had the same decrees issued by Berlin and as far as I am informed, all of these men were criminal officials. I once went to a meeting in Berlin where I met them.

Q Did you ever know a Peter Frank?

A No, he is not known to me.

Q Did you know the head of the political department in Mauthausen?

A No.

Did you know the head of the political department here in Dachau, one Johann Kick?

A Yes, he was in Berlin at that meeting. He was in Berlin when I was there, too.

He was a member of the Gestapo, was he not?

A No, he was from Munich.

DEFENSE COUNSEL: May it please the court, this has nothing to do with the Flossenburg case. I object to this line of questioning, it is entirely outside the province of the court. It is wasting the time of the court.

PROSECUTION: May I be heard? My line of reasoning is this — I expect the testimony to show that the heads of the Political Departments in Mauthausen and Lachau both were members of the Gestapo and I think that the evidence will show that the heads of the Political Departments in Gross Rosen and Bergen Belsen were also members of the Gestapo, and I think it will be perfectly proper to ask this man if it is not a fact that all the rest of them were members of the Gestapo was the reason for his not being.

PRESIDENT: Objection of the Defense Counsel is overruled.

QUESTIONS BY PROSECUTION:

Q Blomberg, is this document which has been marked Defense Exhibit 62 the only identification card you had while you were in Flossenburg?

A That was my duty pass. I got that from my headquarters in the middle of January. It must have been made out the 2nd of January in Berlin. It was renewed every year.

Q What did you do with that little orange colored card that was issued to you?

A I only needed that to enter the camp. I handed it back.

Q And that was the card that was issued by the Gestapo, Department 4, was it not?

MR. O'CONNOR: The question is objected to because there is no foundation for that question. There is nothing in the record to show he was ever issued such a card.

PROSECUTION: May it please the court, he just stated a moment ago that he only needed that when he went into the camp.

(Blomberg-cross)

MR. O'CONNOR: I thought he meant that card -- In that case I move to strike that last answer. There has been nothing to show he was ever issued another card

PROSECUTION: It is in there now.

MR. O'CONNOR: Then I move to strike it because there is nothing to show --

PRESIDENT: What answer are you referring to?

MR. O'CONNOR: I assumed when the Prosecutor asked this witness if he had a little orange card, I thought he said, no, and he just used this card to get into camp.

PROSECUTION: I think if the court will read the answers back to the questions --

PRESIDENT: The court will take a short recess and give you an opportunity to check the record.

(Thereupon the court took a short recess in place.)

PRESIDENT: Court will come to order. Mr. O'Connor, do you wish to recall your motion to strike the previous answer?

MR. O'CONNOR: No, sir, I wish to renew it.

PRESIDENT: What is your ground?

MR. O'CONNOR: For the reason this witness has never testified he was ever issued any such card and so long as it is in now, perhaps it is not timely but I make the motion anyway.

PRESIDENT: The motion to strike on the part of the Defense Counsel is denied.

QUESTIONS BY PROSECUTION:

Will you answer the question, please. (to reporter) Will you read the last question, please?

(Thereupon the reporter read the last question, as follows: "And that was the card that was issued by the Gestapo, Department 4, was it not?")

A I did not receive a card from the Gestapo. The orange colored card being mentioned here was a card issued by the Camp Commander, Koegel, for the entry of the camp because I was a civilian.

(Blombe -cross)

Q Did you hold any simulated rank in the SS?

A I didn't have anything to do with the SS.

Q The administration of the bunker was under the camp commandant, was it not?

A Yes, the camp commander and the adjutant.

Q The people who were sent to Flossenburg for the purpose of execution were never given numbers, were they?

A As soon as they entered the camp a file card and file was drawn up for them. Proof had to be there for each prisoner, where he went to.

Q That is true, Blomberg, but is it not a fact they were not given a number as an ordinary prisoner who was admitted to Flossenburg

A I can't say anything about the question of numbers today anymore. It is over two years ago and I can't say anything about it today anymore.

Q You were carrying on that work from February 1944 up until the evacuation of the camp in 1945, were you not, Blomberg?

A Of course.

Q And you were able to remember the language that was on one of these execution orders, were you not?

A Yes, I read it so often.

Q You also had quite a number of people who were executed there in the camp quite often, did you not?

A Well, the large number was that of the Maelsen people. Other than that, it was all single cases.

Q Approximately how many were executed there in Flossenburg during each week who had been sent there by the Gestapo?

A I can't give any average but every week or ten days a few would arrive.

Q Approximately how many were executed who were already committed there as prisoners?

(Blomberg-cross)

A No cases outside of the Muelsen case are none to me in Flossenburg.

You conducted the interrogations with respect to the Muelsen affair did you not?

A No, I did not conduct that, but Mr. Buden. He can probably give you some information on that. I didn't do anything in that affair.

Just tell the court, Blomberg, when this Muelsen affair took place.

A A few days later I heard about it, it was camp talk. It was called the Red May 1st of Muelsen.

Q You had been there acting as the camp political leader for four months?

A No, two. I had been on my own since the beginning of March.

Buden did not belong to you, did he?

A No, but I heard that Buden had carried out this thing with the adjutant.

You were charged with the duty of investigating such incidents as that which took place at Muelsen, were you not?

A No, that was not one of my duties.

You were in charge of the political department and that was called the Red May Day, was it not?

A I heard that in the camp from the prisoners who worked for me. They told me that.

Q These execution orders passed through your office, did they not?

A No, I got them when these people were dead.

MR. CUTTNER: Let the record show, may it please the court, that the accused, Bodak, has returned to the dock.

Q You were charged with the duty of making interrogations of offenses that took place in the camp, were you not?

A No, offenses in the camp did not concern me, section 3 did that. The commandant handed me single cases whenever he felt that the other man did not work right after he heard him.

(Blomberg-cross)

You succeeded Valcarek, did you not?

PROSECUTION: I withdraw that question.

You succeeded Hulthaupt did you not?

A Hulthaupt was my predecessor.

Q He had the same duties to perform that you did, did he not?

A Yes, of course.

He investigated the matters that took place within the camp, did he not?

A I also investigated single cases but in general that was not one of our jobs. Disciplinary section, Department 3 had to do that.

Q You only investigated matters that were sent out by the Gestapo, is that correct?

A No, I didn't have anything to do with the Gestapo.

Q You made reports to them, didn't you?

A Reports were made to all authorities who requested something, whether that was the Gestapo, the Kripo Office for Juveniles, or the courts, it didn't make any difference.

As head of the Political Department you met weekly with the heads of the other departments there in the camp under Koessl, did you not?

A I was not chief, I was in charge of Department 2 and whenever I was called to the commander I had to go there and I went there.

Q Well, whatever you want to call it, Blomberg, you were the head of Department 2, were you not?

A Yes, I was responsible that the work was done. I was the first worker in the camp, I was the one who did the most work.

Q I am sure of that. Isn't it also a fact, Blomberg, that you had subordinates in the department that were directly responsible to you?

A I was not in charge of the SS men, they were under the commandant, under headquarters.

Q You mean they did not receive their instructions from you?

A They were all there when I got there and I carried on the work as I had taken it over.

Q How many civilians did you have working under you?

A When I got there, three, and at the end ten prisoners.

Q So you had ten prisoners and how many SS men working under you at that time?

A Five at the end.

Q They carried on the duties connected with the clerical work in the office, did they not?

A Yes, whatever work had to be done.

Q And you laid out what work was to be done and they did it, is that not correct?

A Yes, because I was held responsible for that.

Q You also attended these weekly meetings with the camp commandant, did you not?

A Yes, in summer time we had almost every week a meeting for about half an hour and I participated in it.

Q At these meetings the problems of the camp were discussed and answers arrived at, were they not?

A Any special cases were discussed such as new arrivals and jobs each section had to perform. Most meetings were conducted by the administrative section.

Q You attended these meetings?

A I was there often, yes.

Q Is it not a fact that prisoners who came to Flossenburg were very often required to sign a commitment order?

A That all happened before.

Q Before what?

A Before they were admitted.

Q What was it that a prisoner was required to do concerning his commitment there?

A When he was committed he had to fill out a form which had his personal data on there, that is to say, it had questions on there and he had to fill this form out. That was the first page in the personnel file of the party in question.

Q What else was he required to fill out, Blomberg?

A Nothing, when he was committed. Nothing else that I know of.

Q Have you ever heard of a Warrant of Custody?

A A Warrant of Custody had to be there but this came from Berlin, from Reich Security Head Office. Those orders had to be there before, without this order they cannot take a prisoner in.

Q Where was it that the prisoners signed a Warrant of Custody?

A That was during the last period when the situation was helter-skelter in Germany. It happened that the communications were not right so the Reich Security Head Office would send these Warrants to the camp commander, but that was against regulations.

Q It was done in Flossenburg, was it not?

A It must have happened every place in Germany, not only Flossenburg, because connections were bad.

Q It was your job to see that these Warrants of Custody were signed by the prisoners, was it not?

A I didn't bother about this in any single case. I had other jobs to do, more important jobs, and I didn't bother with these small jobs. I handed that to my co-workers.

Q Certainly that was not as important, was it, as trying to find out a man's right name?

A That was more important.

Q But you gave that job to one of your underlings and you yourself conducted the less important job of finding out the man's proper name, is that correct?

MR. O'CONNOR: If it please the court, I object to the question. I think it is a misstatement of the record that it is a lesser job.

PRESIDENT: I should just like to have the record read back, by it please the court. If I am in error, I shall be glad to withdraw my question.

(Thereupon the reporter read the last question as follows: "But you gave that job to one of your underlings and you yourself conducted the less important job of finding out the man's proper name, is that correct?")

MR. O'CONNOR: It is a matter of interpretation as to which job is more important.

PRESIDENT: Objection overruled. You will have an opportunity on redirect examination to clarify the matter.

CONTINUED BY MR. [illegible]:

Q Will you answer the question, please?

A I wonder if it isn't an easier job to see to it that someone signs a paper than if I have to sit there and think about the fact what name I could give to a man. I should like to ask the prosecutor what he would do in such a case?

PRESIDENT: Just a minute, Blomberg. You answer the question. You are not here to ask the prosecutor any questions. Proceed.

CONTINUED BY MR. [illegible]:

Q Blomberg, not all these prisoners signed these Warrants of Custody willingly, did they?

A It is not known to me. They didn't recognize it.

Q You never inquired to ascertain whether or not they willingly signed these warrants which committed them to custody at Flossenburg?

A I never noticed any difficulties.

Q In other words, the prisoners were willing to sign their own commitment to Flossenburg, is that correct?

A Whether it was signed or not didn't have such importance.

[illegible] you remember [illegible] virtual [illegible] [illegible] to [illegible] [illegible] culture, Clenberg.

[illegible], I didn't know anything about it. I [illegible] [illegible] [illegible] [illegible] [illegible] [illegible].

You had to [illegible] all about that, don't you?

[illegible], not about the [illegible].

[illegible] were the people [illegible] [illegible] [illegible] [illegible], [illegible]

I have no knowledge about it. [illegible] anything about it.

[illegible] we carry a pistol in one of [illegible]

[illegible], it was in my [illegible].

[illegible] you carry a pistol on the [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible].

You refused to shoot [illegible] [illegible] [illegible], [illegible] [illegible] [illegible]

[illegible] I have not been asked to do that.

[illegible] were [illegible] on the [illegible] march, [illegible] they [illegible]?

[illegible], I didn't see any.

You didn't see any?

Not from the column I was with.

You saw the bodies with holes in them, did you not?

I saw a few dead [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] there.

[illegible] not from our column but from the [illegible] column.

[illegible] you know from what column [illegible]

[illegible] [illegible] five kilometers [illegible] [illegible] I [illegible] [illegible] the [illegible] because [illegible] [illegible] didn't have anything to [illegible] anyone. [illegible] [illegible] [illegible].

[illegible] [illegible] [illegible]?

[illegible] right.

Did you burn the records of the Political Department?

A They were burned.

Q Did you burn them?

A I was also there. They were burned under my supervision.

PROSECUTION: No further questions.

PRESIDENT: Court will take a short recess in place.

(Thereupon the court took a short recess in place)

PRESIDENT: Court will come to order. Mr. Prosecutor, the court directs that the English translation of Defense Exhibit 83 be in the hands of each member of the court tomorrow morning.

PROSECUTION: Yes, sir.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Blomberg, in response to a question from counsel for the prosecution you stated that you turned over the more important work of Warrants of Custody and you did the less important job of finding out the names of prisoners yourself.

A The other way round is right.

Q Which job did you consider more important?

A I thought that the more complicated work was more important and I kept it for myself.

Q Which job is that?

A Interrogations, investigations, reports, work of recognition.

Q I hand you Prosecution's Exhibit 83. When counsel for the prosecution questioned you about the contents of that document, you stated that certain things in that were incorrect. Will you tell the court at this time what you are referring to?

A There is one thing I notice. I knew that at the time I admitted that I had possibly thrown a blotter at one of the prisoners but I never said anything about mistreatments. The things that are said about executions are wrong, too, because that is not the way it was in reality. Something happened to this thing.

Q Make your explanation to the court of what did happen.

A Many things were possible.

I mean, state to the court what was wrong with this statement and what is not correct there.

A It starts right with the beginning when it says that channels for recommendation for executions were the following: that I took down the facts. That is not correct at all because the facts were taken down on the outside. These prisoners were sent for the very purpose of execution to the camp. It was up to the admitting authorities to inform the Reich Security Head Office about these facts, that is the reason why they conducted the investigation. You could not determine anything of that nature in the camp, that was impossible.

MR. O'CONNOR: Sir, I don't have an English translation, I don't know what to ask him.

PRESIDENT: The court will give Mr. O'Connor an opportunity to confer with the interpreter and an English translation will be available the first thing in the morning.

BY MR. O'CONNOR:

Q Mr. Klomberg, this statement evidently contained a sentence wherein you say that prisoners were executed mainly without interrogation, is that correct?

A Something like that never existed. Any prisoner who had been accused was questioned about the matter.

(Klomberg-redirect)

By whom?

A By the authorities which had admitted him and once in a while the commander would give a case for me to investigate to question the man on it, so he could check whether the authorities and I got the same facts.

Q In other words, what you want to tell the court now is that all prisoners who were executed were interrogated, is that right?

A Definitely. I never heard anything else and something else never existed. Prisoners were questioned whenever they had committed small offenses.

I believe this statement says it was clear to you that those executions took place without any kind of a court trial, is that correct? And that they were simply administrative decisions?

A I couldn't state that because I knew of several cases where soldiers were admitted to the camp. They had committed offenses and had been sentenced to death by the Security Office and were sent on there for execution.

What nationality were they?

A Germans. Everything that happened in the concentration camp had to be confirmed by the Reich Security Head Office.

Why was it clear to you these were administrative decisions? I refer to what appeared in Prosecutor's Exhibit No. 82.

A I can't say anything about the administrative things.

Was this statement read over to you before you signed it?

MR. SCHUTZ: Just a minute. I object to that as leading, may it please the court.

PRESIDENT: Objection sustained.

QUESTION BY MR. [illegible]:

Who read this statement?

A The German prosecutor, Dr. Leise, prepared it. He also read it to me and I signed it. Lt. Paul Guth and Dr. Leise were present.

(Blomberg-redirect)

You stated on cross examination, Mr. Flomber, that you did certain work for the Gestapo, is that correct?

A That all depended. I received a tremendous amount of requests from all authorities.

Q From whom did you receive the request to do the work for the Gestapo?

A The Gestapo would contact the camp commander and ask him to clear up certain matters. The commander would send it to me so that it would be taken care of and whenever it was carried out it was returned to the camp commander.

Did you receive orders to do this work direct from the Gestapo or from the camp commandant?

A Through the commandant.

You further testified that you conducted interrogations of various natures and types and upon the request of different people. Please explain to the court whether you have ever conducted interrogations and investigations without such a request?

A No, that was out of the question.

Who was this man Suden about whom you testified?

A Suden was a Ukranian or something like that. He was a man who had studied and he was always used as an interpreter. He was recommended to me by my predecessor and I also employed him for about two months and then I did not call for him anymore.

In what capacity did you hire him?

A He was not hired at all. He was called whenever there were any Russians or Polish prisoners and whenever an interpreter was needed I called him.

Were you in any of the concentration camps about which the prosecutor asked you in connection with the Gestapo?

(Plaintiff's Exhibit)

A I was only in Flossenburg and didn't see other camps and didn't know.

MR. O'CONNOR: No further questions.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Is it a fact that this Muelsen affair was turned over to a prisoner for investigation?

A I can't say much about it. As far as I know the adjutant was the man in charge of this affair.

These reports that you stated were sent in concerning offenses that had been committed by prisoners pertained to offenses that had been committed outside of the camp, is that not true?

A That question is not quite correct because all that had been taken care of before.

Q Yes, it had all been taken care of before because a person on the outside of the camp was not a prisoner at the time the offense was committed.

A Yes, those were the reasons for commitment.

But as to the offenses that took place after a man became a prisoner, you interrogated the prisoner and prepared the report, did you not?

A No. Whenever a prisoner did something unlawful on the outside, the authority who had arrested him would take care of it.

Q Who were the authorities on the outside that arrested these prisoners in Muelsen?

A At that time I heard that the Gestapo in Zwickau and Leipzig took part in it but I was never informed.

Q But they did not conduct interrogations, Ruden did, is that not so?

A So far as I know Ruder and the adjutant.

And they were members of the camp staff, were they not?

(Blomberg-redirect)
recross

A The adjutant, yes.

Q And Duden was a prisoner, is that not correct?

A Duden was a prisoner.

Q So that the reports that took place concerning offenses that transpired in the camp were prepared by personnel in the camp, is that not so?

A I saw in the files that reports had been made from the leaders of the Protective Custody Camp to headquarters and wherever they had taken care of and worked on the matter they would send it back to Department 2 and it would be put into the files.

Q Is it not a fact that this is the chain of command you were talking about in Prosecution's Exhibit No. 33, that the report would be made by the Protective Custody leader and then it would go from there to the commandant, from the commandant to your office for recommendation and investigation and from your office back to the commandant and from the commandant to the Reich Main Security Office in Berlin?

A No, no, I didn't have anything to do with the camp affairs. Things that had been completed, matters that had been completed, were filed by me, that's all.

PROSECUTION: That is all.

MR. IDRIT: Questions by the court.

QUESTIONS BY THE COURT

QUESTIONS BY PRESIDENT:

Q Wimmers, you mentioned about certain special treatment that prisoners were to receive and you indicated that this special treatment referred to the actual execution of these prisoners. Did that special treatment include anything else outside of the actual execution?

A No. That was the execution, the recommendation for execution, respectively, the order of execution.

(Plaeberg-recross-court)

Q But a good many times these prisoners were beaten and tortured before they were executed, were they not?

A Yes, I remember that I have read in some execution orders that 25 strokes with a stick should be administered before the execution took place.

Q Then this special treatment included beatings and torture in addition to the execution, is that correct?

A Yes, in single cases these stick beatings took place.

You mentioned that these various execution orders were kept in your safe and you had access to same. Did anybody else have access to that particular safe except yourself.

A No, there execution orders were secret and whenever the execution had been carried out the execution orders would be added to the file then the file would be taken to the safe and locked up there.

Q You were the only one who had access to that particular safe?

A Yes.

Q You mentioned also that during the time you were in Flossenburg you were paid by the Bielefeld Police Department. Why was that?

A I was not transferred. I was on detached service and the SS was a Wehrmacht organization, an organization of the armed forces and was not allowed to pay an official.

When you made these various interrogations they were followed up by reports, is that correct?

A An interrogation is something else than a report. Whatever the man in question said was taken down on paper.

In other words, when you conducted these investigations or interrogations you were required to submit a report, is that correct? You didn't submit any report after an investigation or interrogation?

A No, I interrogated the man. He would sign, I would sign and after completion I would send this back to the authorities who had sent this man.

(Sternberg-cont)

What were you signing?

A The record. The indorsement was made by the commander, he had to do that.

Did you add anything to that particular record yourself?

A Nothing outside of the interrogation.

In other words, the interrogation was part of the record, is that right?

A Yes, those were the remarks made by the prisoner, having read the accusation against him.

Did that record also include your opinion as far as the case is concerned?

A Things like that did not happen in my offices, that someone expressed his own opinion.

Then you didn't have to make a statement as to whether you thought the man was guilty or innocent in that record, is that correct?

A No, the authorities would see that whenever they would read it.

Did this record include any recommendations as far as you are concerned?

A Recommendations on my part were not known.

You have mentioned to the court here and testified before the court, the camp commander at various times referred certain cases on to you, evidently for investigation, when he was not satisfied with the previous investigation. In those particular cases did you nothave to make a statement as to whether or not you considered the evidence was sufficient to convict the man or to acquit him?

A No, that was out of the question. I remember, for instance, one case three prisoners had been accused of having committed burglary on an outside detail. A layman conducted the investigation, the interrogation and even the commander didn't like his way of pushing. The commander called

(Before the court)

Grant told me I should take this case into my hand and I was able to find out after three or four days that the whole thing was nonsense, no such theft had been committed. These people had been accused of stealing things and were not even in that camp.

What kind of report did you make to the camp commander in that particular case then? That the evidence was sufficient to convict him or not sufficient?

A. I interrogated these people separately and thoroughly, then conducted an investigation and found out that these people were accused of stealing something that was not even there.

Q. What kind of a report did you make to the camp commander then?

A. I made a report on that, a thorough report, and after three or four days the commander released them from the bunker.

Q. Then the court understands that after your investigations and interrogations in these various cases that you did make a statement of opinion as to the evidence, is that correct?

A. That was not an opinion, that was a fact.

Q. That was a fact based on your opinion, is that correct?

A. Not on my opinion but it was based on the facts which I had found out.

Q. During the course of your submission of these records, did you make any recommendation?

A. No, in this case we couldn't do that because the commander himself would see that nothing was to it.

Q. Then the court understands that in any of these records that you submitted you never made a recommendation as to the action to be taken by the higher authority?

A. No, that was forbidden for us because no higher authority would take any recommendation from me.

The Court will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon at [illegible] hours, [illegible] the court adjourned.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: Erste Anklage:

Particulars: Einzelheiten:

Second Charge: Zweite Anklage:

Particulars: Einzelheiten:

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at By Order
um Uhr stattfinden. Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

① CA/GI 13 gwD

Legal Form No. 8 Comm SRH

MILITARY GOVERNMENT COURT

CASE RECORD. First Duplicate Copy
Pages 7471 - 7546 Incl.

FLOSSENBURG

Case No. ...

~~Summary~~
~~*Intermediate~~ Military Court.
*General

Place Dachau, Germany

Date 3 December 194 6
0900 - 1700 hours

~~Members of Court~~:

WITNESSES:

BLOMBERG, Konrad

FRAAS, Heinrich

Prosecutor ...

Defence Counsel

Interpreter

Reporter ...

Accused Friedrich Becker, et al

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term ...
  - Beginning ... 194
- Fine
  - Amount
  - To be paid before ... 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority ...

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES VERSUS FRIEDRICH BUCKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

3 DECEMBER 1946 0900 - 1700 hours Pages 7471 - 7546 Incl.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
BLOMBERG, Konrad			7489-A		7473
			7493	7496	7505
			7512	7517	
FRAAS, Heinrich			7537		7542
			7544	7545	7545

EXHIBITS

No.	Description	Marked	Received in Evidence
P-84	Punishment Form	7498	7502
P-83-A	Jurat	7471	7471 (Withdrawn
P-83-A	Substitute New Jurat	7519	7519
D-63	Sworn statement of Edwin Rostler	7520	7521
D-63-A	English translation thereof	7520	7521
D-64	Sworn statement of Frantisek, Stefan	7533	7533
D-64-A	English translation thereof	7533	7533

DACHAU, GERMANY

8 December 1946.

MORNING SESSION

(whereupon the court reconvened at 0910 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all of the defense are present with the exception of Mr. Hall and Dr. Englehorn who are absent on business of the accused; all of the accused are present with the exception of Eisbusch, Oswalt, Mummfeldt, Lipinski and Auret, who are ill and Dr. Schmitz and Sodak who are absent conferring with counsel and whose interests are being taken care of by counsel.

If there are any spectators in the court who expect to be called as witnesses in this case, they will please leave the courtroom.

PROSECUTION: I hand the reporter a document and ask that she mark it for identification as Prosecution Exhibit 83-A, which is a sworn translation from German to English of Prosecution Exhibit 83.

(The document referred to was marked Prosecution Exhibit 83-A for identification.)

PROSECUTION: We offer at this time, may it please the court, the translation of Prosecution Exhibit 83, which has been marked Prosecution Exhibit 83-A.

PRESIDENT: Any objections on the part of defense?

MR. O'CONNOR: No Sir.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive Prosecution Exhibit 83-A in evidence and give such weight as the court sees fit.

(The document heretofore marked Prosecution Exhibit 83-A for identification was received in evidence as Prosecution Exhibit 83-A, is attached hereto and made a part of the record.)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court at 0915 hours recessed in place and reconvened at 0920 hours.)

PRESIDENT: The court will come to order.

PRESIDENT: The court directs that the interpreter translate from the original of Prosecution Exhibit 87.

(Whereupon the interpreter commenced translation of Prosecution Exhibit 83.)

PRESIDENT: The translation reads "permanent residence", instead of living.

INTERPRETER: It merely says, "resident in Bielefeld".

(Whereupon the interpreter continued translation of the document.)

PRESIDENT: There seems to be some discrepancy again in the translation - "execution orders" and "request of execution" can not be classified as the same thing. An order and a request are two different matters.

INTERPRETER: That is the way I understand it.

PRESIDENT: All right, proceed.

(Whereupon the interpreter continued translation of Prosecution Exhibit 83.)

PRESIDENT: Does paragraph four say anything about, "due to excitement".

INTERPRETER: Yes - "I admit that when I was interrogating prisoners, I threw objects at them in my excitement".

PRESIDENT: How about the declaration; does he say anything there about voluntarily and without duress?

INTERPRETER: The declaration is in his own writing. I can hardly read his writing. Yes, here it is, "I give the statement without duress".

PRESIDENT: Read the first part of paragraph one again.

INTERPRETER MEANS: "As far as requests for execution were concerned, the way it was done was in the following manner in the chain of command: Either I determined the state of affairs or if I did not do it, another command post did it".

PRESIDENT: Mr. Prosecutor, the court notes one correction that has been made on this copy here that has not been initialled changing the month from December to January; it may be material.

PROSECUTION: Sir, I think that is the way it appears on the original.

PRESIDENT: Yes, it changes the date from December to January. If that is the way the original reads, it is all right.

PROSECUTION: No Sir, you see the original is down to here (indicating).

PRESIDENT: I think that should be initialled by the prosecution.

PROSECUTION: Very well, Sir.

KONRAD BLOMBERG, an accused, resumed the stand and testified further through an interpreter as follows:)

EXAMINATION BY THE COURT:

QUESTIONS BY THE PRESIDENT:

Q Now Blomberg, you stated yesterday afternoon that in making up these reports of your interrogations that you did not indicate an opinion or a recommendation thereon. Is that correct?

A That is right.

Q You mean by that, that this procedure was not followed out in any particular case?

A I never expressed a personal opinion.

Q Did you ever indicate a recommendation in any particular case referring to report of your interrogation?

A No, I was not authorized to do that and I never remember doing anything like that.

Q The court fails to understand your present statement on the witness stand Blomberg with a previous statement indicated in your sworn statement on January 19, 1946. I am referring to Prosecution Exhibit 87-A, your sworn statement, paragraph one, - "concerning request of executions, the procedure was the following: I ascertained the facts or accepted them in case they had not been ascertained by me but by another agency. If, in my opinion, an offense required a severer penalty than the camp commander was authorized to mete out, I after contacting him, drafted a request of execution and countersigned it. After countersigning it, I submitted the request to the camp commander". How do you explain the difference in your statements?

A There is something wrong in this record here.

Q You mean to say that this statement indicated hereon together with the German copy read to you yesterday afternoon is not a correct statement of the words as portrayed by you in your sworn statement of January 19, 1946?

A That isn't right, drawn up on this form.

Q Didn't you state yesterday afternoon that the copy you had signed at the time of that interrogation was the truth? Didn't you make that statement yesterday afternoon to the court?

A The question was asked me before and I answered it and I never signed anything that did not correspond with the facts. And, when the statement was read back to me in the presence of Dr. Leiss and Paul Goltz, I said yes, "I can sign that, it corresponds with the facts", but that statement was not in the form of this statement here.

Q You admitted yesterday afternoon that it was your signature on the original copy in German, did you not?

A Yes, that was my signature.

(Accused Blomberg - Court)

Q Now Blomberg, can you make an explanation to the court as to the variance or difference between your statement to the court and the information contained in this paragraph one? The court will give you an opportunity to read over paragraph one from Prosecution Exhibit 83.

(Whereupon the witness was handed Prosecution Exhibit 83 and read same.)

A A request for execution could not be made by the commander of the camp. According to the penal code which we had, the crimes had to be committed outside of the camp.

Q But couldn't the camp commander recommend an execution? Couldn't you as investigating officer and interrogater recommend an execution after you had gone over the facts of the case?

A In such cases, I never made investigations. That was up to the authorities who handed the man into the concentration camp. They had to make the investigation.

Q Now Blomberg, the court desires to ask you again or will ask you again as to whether or not after conducting these interrogations and during the course of your report as to whether you indicated any opinion on the report as to the guilt or innocence of the party and whether you made any recommendations to be taken by higher authorities.

A I never expressed any personal opinion. What was necessary could be seen by looking at the record itself.

Q Did you indicate any recommendations whatsoever on those reports?

A Never, never.

Q You testified yesterday afternoon that no executions were ordered by the Reichs Security Main Office without court proceedings. Do you recall making that statement?

(Accused Blomberg - Court)

A I can't say it was done without court proceedings. I only know that all the orders for execution came from Berlin from the main office of the National Security Service. It is more than I know to state whether court proceedings was gone through every time. I know that some German soldiers were executed, who had been condemned by a German court and the main office of the National Security Service had ordered these executions.

Q Now Blomberg, I am going to read paragraph three of your sworn statement indicated in Prosecution Exhibit 83, covered in the English translation Prosecution Exhibit 83-A.

"It was clear to me that the executions did not mean the carrying into effect of a judicial decision but of an administrative decree issued by the Reichssicherheitshauptamt (Reich Security Main Office) without court proceedings, above all, without hearing the person to be executed."

Interpreter, please hand exhibit 83 to the witness.

(Whereupon the witness was handed Prosecution Exhibit 83 and read same)

Blomberg, do you contend at the present time that these executions were based on a judicial decision or simply an administrative decree?

A The whole train of events had to be sent to Berlin and the one who was accused was interrogated. I never knew of anything else according to German law.

Q You mean to say that the accused was interrogated in every case, and right in Berlin?

A No, not in Berlin.

Q In other words, you are trying to indicate to the court that whoever made this decision in Berlin was simply basing his decision upon certain reports that he had received and not after an interrogation of the accused himself. Is that the case?

A I can't say much about that. A description of the train of events had to go to Berlin because the people in Berlin had to be clear about what was involved and they would have never punished or

(Accused Blomberg - Court)

condemned anybody to death without these papers describing the train of events.

Q Well, do you know whether or not they actually had court proceedings in Berlin?

A No, it was impossible in every case.

Q Do you know of any case where the accused appeared before some court in Berlin prior to an execution order?

A Not in Berlin, but I know about other cases where people were presented before other courts.

Q Then, you mean to indicate that there were no court proceedings in Berlin in the majority of cases, is that correct?

A No, it couldn't have taken place in Berlin, it took place in other places and they made a report to Berlin about it.

Q Were there any Gestapo representatives in Flossenburg?

A No, there were no Gestapo people stationed there.

Q Just what were your contacts with the Gestapo?

A I had no connection with the Gestapo.

Q Didn't you tell the court yesterday afternoon the Gestapo referred cases to you down through channels? Weren't you called upon to make investigations by the Gestapo? Now, the court wants to know just what contacts you had with the Gestapo?

A There are inquiries about all kinds of people in the camp and these inquiries came from all kinds of people and the commander gave me those inquiries and told me to take care of them and after I finished taking care of them, I would send them back by way of the commander's office. In these inquiries, there were some inquiries from the Gestapo and that was the entire contact I had with the Gestapo.

Q Did those inquiries or requests for reports always come down through the camp commandant?

(Accused Blomberg - Court)

A Yes, they all came by way of the camp commandant's office.

Q When you completed those reports, did they always go back through channels, through the camp commandant?

A Yes, I would finish my interrogation and draw it up in writing and the commandant would sign it and it would be mailed away.

QUESTIONS BY LAW MEMBER:

Q Blomberg, this translation which I have here indicates that in the event you were not satisfied with the penalty or the report, that you would draft a request of execution and sign it yourself which would seem to indicate that you were recommending a more severe penalty including an execution as set forth in this first paragraph. That is entirely different from your testimony now and I am not quite able to reconcile the two.

A I didn't have any influence with regard to punishing people and if I had made any kind of recommendations or suggestions, the commandant would certainly have resented it and the degree to which the commandant could punish people was unknown to me.

Q Did you read over this statement before you signed it?

A At that time, it was read aloud to me and I said, "Yes, it is in order and may I sign it?" but it was not in this form and if it had been, I would never had signed it because among other things, the fourth point here is wrong.

Q You tell the court that is your signature on the Prosecution Exhibit 82, is that correct?

A Yes, that is my signature.

Q Why did you sign that exhibit, if it is not correct?

A At the time, when it was read aloud to me, I did not have any hesitation.

Q You said that the statement that was read to you was correct and you signed it voluntarily?

(Accused Blomberg - Court)

A Yes, I had to add that later on in writing.

Q You had to add what?

A I wrote what I have written here in my own handwriting; it was dictated to me and I had to write it down.

Q You knew the contents of that statement before you signed it, is that correct?

A Yes, it was read aloud to me.

Q And there was no compulsion at all, you signed it voluntarily?

A Yes, the fourth point here is wrong too.

Q If it is wrong, why did you sign it?

A I just found out about that now.

QUESTIONS BY THE PRESIDENT:

Q Blemberg, referring to paragraph four of your sworn statement covered in Prosecution Exhibit 83, the statement is as follows: "I admit that during interrogations, I threw objects at prisoners and mistreated them due to excitement". Do you have anything to say about that particular fourth paragraph in your sworn statement?

A I have already been asked about the way I conducted interrogations and the methods used. And I said, that once in a while you had to get perfectly clear with these people, making yourself understood and it often happened that I would throw my blotter down on the ground in my excitement, but I never said that I mistreated anybody, because that is not correct. I always had an interpreter with me and if I had beaten anyone, it would have immediately become the talk of the camp.

Q What kind of blotter was this you threw on the ground?

A It was a small piece of wood with a blotter fastened on it.

Q How big a piece of wood was it?

A From 10 to 12 centimeters and half-round with a handle on top of it and that was surrounded with blotting paper.

(Accused Blemberg - Court)

Q Now, if you recall your testimony yesterday afternoon, you said something about that you admitted throwing that blotter at a prisoner one time, not on the floor. Do you have anything to say about that?

A I never threw it at a prisoner.

Q What about the matter of mistreatment?

A Nobody was ever mistreated by me.

Q Does that include your assistants who were in there assisting you in your interrogations?

A All I had was an interpreter when I had foreigners to be interrogated.

Q You haven't exactly answered the question of the court. Did you permit any of your assistants, at any time, to mistreat prisoners, or direct them to?

A I would never have allowed that.

Q You have not answered my question. Did you or did you not?

A No, nothing like that was ever allowed.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1000 hours.)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution, all of the personnel of the defense are present, all of the accused are present with the exception of Losch, Gewelt, Lipinski, Eisbusch, Rusfeld and Hurst, who are ill and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom.

KONRAD BLOEMBERG, an accused, voluntarily took the stand in his own behalf and continued to make the following unsworn statement through an interpreter, as follows:

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q As I recall, you indicated yesterday during the course of your testimony, Blemberg, that all sentences had to be cleared by the Reich Security Office in Berlin?

A They all came from Berlin, yes, that's right.

Were you referring to all sentences, as indicated, or executions, or what?

A Executions came from Berlin, also serious sentences, and also beatings with sticks which had been ordered, came from Berlin.

Q You mean by that that the camp commander or any other designated officer couldn't order a prisoner to receive five strokes on the wooden horse, or ten, fifteen or twenty, or something of that nature...?

A No, that had to be approved by Berlin.

Q Well, was that carried out in Flossenburg?

A Yes, when these requests were made I would get them and I would often have to enclose a photograph, and when these came back and were put together with the documents I saw that Berlin had approved them and that so and so many blows with a stick had been ordered.

Q You mean by that that every time that a man received so many blows on the wooden horse at Flossenburg that that was ordered by Berlin, that is, by the Reich Security Office in Berlin, is that what you mean to indicate to the court?

A Yes.

Q And you mean to say that that policy was followed out exactly at Flossenburg. In other words, every time a man received a certain number of specified strokes on the wooden horse, that that was ordered by the Reich Security Office in Berlin and not by the camp commander or somebody else?

A Yes, they approved it.

Q Now, getting back to this blotter that you admit fooling around with at your office, how much did that weigh?

A 100 to 150 grams, perhaps.

Q PRESIDENT: Any further questions by the members of the court? Colonel Burcham.

QUESTIONS BY LT. COLONEL BURCHAM:

Q You say that these documents in the case of beatings came back from Berlin approved by the Reich Security Office. Just what do you mean by this "approved"?

A For instance, if the commandant of the camp recommended that someone be beaten with a stick, he would send his report to Berlin and Berlin would approve the report, and I looked at the printed forms which

(Accused Blomberg - Court)

were used, and by looking at them I could tell that there was a space there where the doctor had to write whether the party in question could stand blows with the stick or not, and when these papers came back it would say that such and such a man would get five or twenty-five blows with a stick. That would be taken care of and then the paper would be put away with the documents.

Q Then there were recommendations for punishments that went out of Flossenburg, is that right?

A Yes, for beatings.

Q How many beatings would you say took place that month?

A That went up until around Christmas. After that there weren't any reports turned in. About three or four times a week up until Christmas, 1944, someone would be beaten..

Q You said that if you had mistreated anyone at any time in your office the whole camp would have talked about it. Now how do you reconcile that statement with the fact that Ohnweiler, Schlundermann, and Hulthaupt knew nothing that went on in your office?

A Everything was very quiet when I was working there, as a rule.

Q When would it not be quiet?

A Once in a while when we would have certain difficulties with the person, and we would have to be more distinct with them.

Q Then you would take action like Haonae had testified about: strip a man down and work at him with a lighted cigarette pointed at his naval?

A That's what he said.

Q Then afterwards there would be a scream heard, but no one would see you do anything. Right?

A Nothing like that ever happened. I never ordered anyone to undress. That is impossible.

Q How many executions were you at, Blomberg?

A Only the one at Johanngeorgenstadt.

Q Then all these witnesses who appeared here, some of them for the prosecution and some for the defense, have made up the story that you had been seen at executions?

A All people who were at the bunker are here and they can verify that they never saw me do anything like that.

Q Do what?

A They never saw me take part back there in any executions, and I was never present during a number of public executions, and almost all the prisoners were present at some of them and nobody ever saw me there.

How about private executions?

A There weren't any secret executions.

MR. McKAY: Let the record show that the accused Kunzfeldt, Furst and Eisbusch are now present.

Q Do you know Diederich--Clemens Diederich--who appeared here as a witness?

A I don't know him personally.

Q Did you know that you were being shadowed around Flossenburg, as testified by one witness?

A That's what he testified,but I never heard anything like that.

LT. COLONEL BURCHAM: I think that is all.

PRESIDENT: Colonel Skielvig.

QUESTIONS BY LT. COLONEL SKIELVIG:

Q Blomberg, did I understand you to say that after Christmas, 1944, there were no further reports made to Berlin concerning beatings?

A Yes, after that period of time I didn't get anything like that to put to the records.

Q Do you mean to infer by that that there were no further official beatings done in Flossenburg?

A I don't believe so because after the winter the people in the camp were rather tolerant.

Q Do you remember when Retzlaff was on the stand here, and at that time he testified, and several other witnesses testified, that he was taken into the clerk's office and badly beaten for bringing methyl alcohol into the camp?

A That's what I heard here, yes, in the courtroom.

Q According to all testimony, that took place about March 1945?

A That's the way I heard it hear, yes.

Q You do not remember anything about that yourself, do you?

A I didn't hear anything about that at Flossenburg.

Q Well, did you hear about that while you were in the courtroom?

A Here in the courtroom. I didn't find out about it until here.

Q You never heard about that in Flossenburg at all, about this methyl alcohol business?

A I did hear that some methyl alcohol was brought into the camp and that several people died because of that, but I heard nothing about any connection with Retzlaff.

Q Blemberg, during the period which you served in Flossenburg, who was it that made inspections of your office?

A Once in a while the commandant would come through.

Q Did you not ever have anyone make inspections from a higher headquarters?

A Not inspections, but once in a while we had been visited by higher authority. He would arrive at the camp and the commandant of the camp would conduct him around the camp and also bring him to our department and show him the card index files and the custodian department and the administration section.

Q Where did these people come from, what headquarters?

A I saw that they were higher officers of the Wehrmacht and higher up leaders of the SS.

Q Did you ever have any visitors from Department 4 of the Reich Main Security Office in Berlin?

A Nobody ever came to me from there. I do remember that there were several from Berlin back there in the commandant's office, but they never came to me.

Q Now Blomberg, did your department have anything to do with the classification of prisoners insofar as to the type of triangle they would wear in camp?

A No, I didn't have any influence in that matter. The fact was this: if they came from the National Criminal Police, if they delivered them, they would get a black or a green triangle, and those who were turned in by the Gestapo would get a red triangle.

Q Many of these witnesses have testified that they were called into the political office and that their triangles were changed during their period of stay in Flossenburg. Who did that?

A No one ever had his triangle changed with me. I know of no such case.

Q I mean, during the whole period you were there?

A That's right, no such case ever occurred the whole time while I was there.

Q You are sure of that now--not during the whole time?

A Completely, that's right.

LT. COLONEL SKINNING: No further questions.

QUESTIONS BY LT. COLONEL BURCHAM:

Q Schlundermann said that you were not on good terms with Koegel. Do you know anything about that?

A Koegel never said anything to me personally, and he never told me that I was in bad terms with him. I had official duties I had to take care of with him and nothing else.

Q All of the statements by people who worked in your office say you were in the Gestapo. Now you tell us you are not. Who is right?

A Nobody can maintain that because it is true on my door the sign read merely my name and my official place of work and my capacity, and Schlundermann knows exactly that I came from the criminal police in Bilefeld. I often carried on conversations with my employees about these matters, and Schlundermann comes from Paderbon, which is a town not far from Bilefeld, and he knows what the score is there, and he was quite well known in Bilefeld.

Q Now, you were a criminal policeman, is that right?

A Yes.

Q The Gestapo was a secret police?

A Yes, the national police, political police.

Q Those people did not know anything about who was a Gestapo agent and who was not?

A No, that's right, a layman scarcely knows the difference.

Q Did Koegel know your status?

A Yes, that's right.

QUESTIONS BY LT. COLONEL SKIELVIG:

Q You previously testified, Blemberg, that among the prisoners that you had working for you, you had one who was a photographer. What was his name?

A At the end I had two. One was a Pole and one was a Frenchman. The first name of the Frenchman was Joseph, and I believe his last name was Ofenderf or Olenderf--I don't know which. He came from southern France and often talked about his native land.

Q What was the name of the other one?

A I can't remember his name any more--the name of the Pole. We had another one, Franz Gaede. He came from Bremen and he relieved one of the photographers in the summer, and he became a soldier, went into the army, and I got another one in his stead.

Q Do you know of any other photographers that worked in camp?

A No, I didn't have any more.

LT. COLONEL SKIELVIG: No further questions.

QUESTIONS BY PRESIDENT:

Q Blemberg, were you affiliated with the Gestapo when you were on duty with the criminal police in Bilefeld?

A No, there was a Gestapo in Bilefeld but the criminal police didn't have anything to do with them. We, as the criminal police, were responsible for the territory included in the city of Bilefeld as such, and I know that the Gestapo was responsible for the entire national area of East Westfalia.

Q You did not have any contacts with the Gestapo in Bilefeld?

A No, we didn't have anything at all to do with the Gestapo.

Q You did not have any contacts with the Gestapo in Bielefeld?

A No, we didn't have anything at all to do with the Gestapo.

Q Now, Blomberg, did not your office investigate the case of Retzlaff and those Russians who were implicated in the matter of the alcohol?

A No, we did not start any investigation in that matter.

Q You were not present when Retzlaff was severely beaten at the time of that investigation?

A No.

Q Why do you suppose he had taken the stand and testified to that effect?

A It is possible that that may have happened; I [illegible] not denying it.

Q Was it possible that you were present?

A No, I was not present. Definitely not, because the camp clerk's office was inside the camp and our offices were outside the camp. I seldom get into the camp.

Q And your office had nothing to do with that investigation whatsoever?

A No.

Q You were not present at any time during the course of that investigation?

A No.

Q Blomberg, why was it that the camp commander sent these cases on to you for investigation and interrogation?

A Well, there wasn't anybody else there who could do it.

Q But you testified to the court here that you didn't express

an opinion as to the guilt or innocence of the individual, that you made no recommendations. Now the court would like to know, if you can explain to the court, just why the commander ever sent these cases on to you?

A Well, it was like this: I just happened to be the only one there who could get along with other people and knew how to treat other people. The other people just hadn't learned it.

Q What do you mean by "other people"?

A Well, everybody can't conduct an interrogation of someone.

Q But what was the idea of it, if you made no statement of opinion--no recommendations. You mean to indicate to the court it was just a routine matter as far as the camp commander was concerned?

A Well, the things came into the office and they had to be taken care of, and I had to send it back to the commandant of the camp.

Q You just signed your name and sent it back, is that it?

A I conducted the interrogation, put it down, and sent it back.

Q What did you write down?

A That which the party in question told me; that is, what he said to these matters with which I confronted him.

Q Did you ever call any additional witnesses in during the course of these investigations?

A Certainly.

Q And that was all that had been included in the report then?

A Yes, merely the statements of the party concerned, what he had to say in regard to the matters with which he was confronted, and his answers to the questions which were placed to him, and he would sign his statements as being correct, and I would sign them also. He would put down the initials standing for the words, "read out loud","approved", and

(Accused Blemberg - Court)

"signed", and then we would both sign it.

Q What do you mean by "approved"?

A That it was correct; and I would put an end to it and write my name on the bottom.

PRESIDENT: Any further questions by the members of the court? Colonel Burcham.

QUESTIONS BY LT. COLONEL BURCHAM:

Q Is that why you put your initials on this Prosecution's Exhibit 83? Does that mean that you approved the statement?

A Yes, what was read to me at that time I approved of; that was right at that time.

Q On these investigations when you got witnesses in there, did their story always coincide with the man being investigated?

A Not in all cases.

Q Well then, someone had to have an opinion as to who was right, didn't they?

A Well, the authority who asked for this interrogation in the first place had to decide that. They had additional material at their disposal.

Q Did you investigate those SS men when they were alleged to have stolen watches or some other materials from the battalion which had just been brought in from Flescenburg?

A No, the court officer conducted that interrogation; it was none of my business to conduct any interrogations in connection with the members of the SS. That was up to the court officer.

Q Then, in other words, an SS man had a right to appear before a court, is that right?

A Well, if they committed some kind of crime they would be placed in an SS court.

Q And an inmate, either German or foreigner, was investigated, and the papers were then sent to the Reichs Security Office. In Gestapo headquarters it was acted on and a man might be beaten, or beaten and hanged, or executed in some other way, is that correct?

A No, beatings would only be ordered in connection with misdemeanors committed in the camp, and death sentences could only be imposed in connection with serious crimes committed before the people arrived in the camp, and there is a big difference there.

Q At any rate, you investigated the cases of the inmates, is that right?

A Partly.

Q And there was no court action in those cases? It went directly to Gestapo headquarters, is that right?

A There weren't any court proceedings in regard to small misdemeanors committed inside the camp; that was merely a matter of discipline.

Q Did you ever investigate a case of an attempted escape of an inmate?

A I only knew of one single case in Flossenburg, and I didn't have anything to do with that.

Q Who did?

A I assume it was the adjutant or the leader of the protective custody department, respectively.

Q Did the papers go through your office?

A Yes, when it was all finished they would come to the documents.

Q That was subsequent to the execution of the escapee?

A Nothing happened to any body who escaped unless he had committed some crime on the outside.

Q Well, did this man that you know about commit any crime on the outside?

A For the moment I can't say anything about that.

Q You can't or won't?

A I want to but I can't.

Q There was only one attempt to escape while you were there in Flossenburg?

A Yes.

Q Who investigated cases of prisoners who were shot when they were either running towards or climing through the wire around various parts of the camp?

A The commandant, the adjutant and the doctor, and we sent up a photographer over there to make four or five pictures.

Q What kind of report was made on that?

A The reports were made either by the court officer or the adjutant, and I didn't take part in these matters.

LT. COLONEL BURCHAM: That is all.

QUESTIONS BY PRESIDENT:

Q Blomberg, did you ever have occasion to investigate a case wherein, in your opinion, an offense required a severer penalty than the camp commander was authorized to hand out?

A No, I know of nothing like that.

PRESIDENT: Any further questions by members of the court?

LT. COLONEL GRINVIG: Yes, I have one more.

QUESTIONS BY LT. COLONEL SKISELVIG:

Q Blemberg, did you ever, at any time, while you were in the political department, try to force a prisoner to sign a confession, and such action on his part would necessitate a change in his type of triangle?

A No, anything like that was impossible. If the color of triangle were changed inside the camp then Berlin would be completely confused about it; and I noticed that people were sent into the camp by the National Criminal Police, and the National Criminal Police takes care of that; it has to.

Q Well, was it not necessary sometimes for you to obtain a confession from the prisoners in question before you could comply with the order from Berlin?

A Nothing like that ever happened in my office.

Q What have you got to say about the testimony by Ginschell that he was sent to the political department and then sent to the crematory?

A I can't say anything about that.

Q What have you got to say about Heinisch's statement to the effect that he was also threatened unless he signed a confession. In fact he said he signed a confession and from then on were a green triangle. How do you explain that now?

A I can't say anything to that.

Q You do not know what went on in your department then, do you?

A Oh, yes, I knew exactly what was going on, everything.

Q Well, then, what have you got to say to the numerous witnesses that came in and all testified that they all had their triangles

changed after signing a confession that they were forced to sign in your department?

A I don't consider that possible. When I was there I never knew of any case at all where a man's triangle was changed—where the color of triangle was changed.

Q And yet here are two people whose names I have already stated who testified that they had their triangles changed while you were there, and you do not know about those?

A I consider that that could never have happened when I was there because I certainly would have seen what was going on.

LT. COLONEL SKINLVIG: No further questions.

PRESIDENT: Colonel Burcham.

QUESTIONS BY LT. COLONEL BURCHAM:

Q Will you tell us just how it was that you influenced these people to sign commitment papers or confessions when other people could not?

A You can't use the word "convince" here. When I was carrying on negotiations with people— interrogations—I had a set routine which I followed and that consisted of statements with which I was going to confront him.

Q How did you persuade him to sign these confessions when he didn't want to?

A I didn't have to lead him around on the nose. I just wrote down what he had to say to that with which I confronted him.

Everything that was put down in that office was statement of fact then, is that right?

A Certainly.

(Accused Blaeberg - Court)

Q The matter of your personal opinion did not enter into it?

A Well, I saw to it that the answer was answered in a reasonable manner. I never let myself be treated as a dumb boy.

Q You never used any threats or promises on any of these times when you secured a confession?

A You can never talk here about as about trying to force anyone to sign a confession because I would have got in trouble myself in regard to that.

Q How could you have got into trouble?

A Every confession was checked, rechecked--every confession we had.

Q Checked by whom?

A Our authorities, that is the way, we are used to it.

Q How did they check?

A For instance, if anyone was describing a burglary; let's assume it was burglary, for all I care we could use that for an example, and he would describe it in the most rosy colors, in colors that doesn't correspond to the truth at all, then that causes your attention.

Q Then you make up your mind and you give an opinion, is that right. You do express an opinion there, is that right?

A How am I to understand that?

Then as a result of that you make recommendations and you forward those papers to headquarters, isn't that right?

A We can't talk about recommendations here at all.

Q In other words, what you decided in there was the high and the lower justice, is that what you are trying to tell us?

A No, I was not authorized to do that, that was none of my business.

Tu 646 12/3 IB 17
Fless.

QUESTIONS BY PRESIDENT:

Q What did you do when a prisoner painted a rosy picture to you during the course of an investigation—did you accept that statement as a matter of fact, or what action did you take?

A No, I never took such a thing as genuine.

Q What did you do about it?

A I made it clear to these people that what we were after was the truth.

Q And did you get the truth?

A I must say I never had much trouble.

Q Well, how did you get the truth, particularly after one of these rosy pictures?

A Well, first of all, the material, the proof against him, the witnesses, and his own statements.

Q Was that about the time you threw that blotter?

A That is possible, that that also happened.

Q What transport were you on during the course of the evacuation march?

A I was at the very end, I believe it was the 4th transport.

Q Who was the commander of that transport?

A There was an officer, and I never had seen him before in Flossenburg. I saw him there for the first time.

What were your duties on that transport?

A I didn't have any duties.

Q Well, if you did not have any duties, why did you carry a gun?

A I didn't carry any gun. I was completely in civilian clothes.

Did you not testify that you carried a pistol during the course of that evacuation march?

(Accused Blemberg - Court)

A Yes, I had a pistol, I had to have that. I brought it from Bielefeld with me.

Q Why did you have to have it?

A When a German police official is on duty he has to carry a pistol; it was a small pocket pistol; 7.65 caliber.

Q But you just told the court that during the evacuation march you did not have any duties. Now just what duties did you have?

A I didn't carry a rifle.

Q Just what duties did you have during the course of that evacuation march?

A I didn't have any duties.

Q How much ammunition did you carry with your pistol?

A I had two clips, each clip contained five rounds.

Q Did you have occasion to use that pistol during the course of the evacuation march?

A No, I didn't use it.

PRESIDENT: Any further questions by the members of the court? Colonel Skielvig.

QUESTIONS BY LT. COLONEL SKIELVIG:

Q Blomberg, do you remember the witness Kuefner, that was here?

A I remember the name but I don't remember what he said.

Q Do you remember ever seeing him at Flossenburg?

A It is possible, but at the moment I can't tell you.

LT. COLONEL SKIELVIG: No further questions.

PRESIDENT: Any further questions by the members of the court? Apparently not. The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order. Redirect?

MR. O'CONNOR: If it please the court.

REDIRECT EXAMINATION

BY MR. O'CONNOR:

Q Mr. Blomberg, the president of the court asked you a few moments ago why Koegel or the camp commandant sent requests for investigations to you if you did not have any recommendation or any opinion to express about such matters. Now will you tell the court at this time who it was in Flossenburg that had the custody of the personnel files and the personnel data of all the prisoners?

A The personnel data and documents which were used in department 2 we had in our custody.

Q And who was in charge of Department 2?

A I was.

Q Mr. Blomberg, you stated that the part of your statement which has been introduced and admitted in evidence as Prosecution's exhibit 83, that was written in your own handwriting, was dictated to you later than the body of the statement. I want you to look at it, this statement here at the end. Tell the court how much time elapsed between the time the printed part was signed by you and the part written in your own handwriting?

A It was dictated to me immediately after the other was finished.

Q When did you sign the part in your own handwriting?

A Directly after I signed my name up there.

Q No, I am speaking to you now about the signature on the bottom of page 2 of Prosecution's exhibit No. 83.

A Yes, that took place immediately.

MR. O'CONNOR: If it please the court, I would like to verify one word that has been used in the English translation of this statement, that has been given different translations by the interpreters. I am referring now to that part of the English translation of Prosecution's Exhibit No. 83 wherein the statement reads:

> "I after contacting him drafted a request of execution and counterslgned it, after counterslgning it I submitted the request to the camp commander, he signed it and handed it back to me for forwarding to the Reich Security Main Office..."

I would like to verify that because the interpreter yesterday used the word "signed", and I believe a prior witness also used the word "signed", the present interpreter used the word "marked", and the document says "counterslgned". I would like to ask Mr. Blemberg, if it please the court:

QUESTIONS BY MR. O'CONNOR:

Q. Mr. Blemberg, what did you do with these reports which you sent to Koegel and then forwarded to the Reich Security Office, with respect to whether you signed them, counterslgned them, or initialed them, or marked them?

A. The way that is written down here is entirely wrong. We never were allowed to make a request for an execution. Berlin was the one who had to make a decision about that.

Q. Mr. Blemberg, I again hand you Prosecution's Exhibit No. 83 and ask you to read that part of the exhibit commencing with "I after contacting him..."

A. (Witness looked at exhibit.)

Q. Have you read it?

A. Yes.

Q Tell the court what you did with respect to initialing it or countersigning it or marking it or signing it, or whatever you did to it. I am referring to the request for execution.

A We never had anything to do with requests for executions. We were not authorized to make any, and not even the commandant of the camp was authorized. And if the commandant of the camp thought that he did have jurisdiction and power to punish a person, if he didn't have enough power, then he would send the matter down to Berlin and let them decide it.

Q What did you do with respect to signing it or initialing it?

A I didn't play any part at all there. All I did was make my interrogation and sign that, and the commandant had to make further decisions about what he wanted to do from then on.

Q Blemberg, you have stated to the court in answer to a question from a member of the court that you had nothing to do with determining the color of triangle a prisoner were, or with changing the color of a prisoner's triangle.

A No, we couldn't do that.

Q Tell the court who did make that determination?

A As I already said, there were black triangles, red triangles and green triangles. The green triangles and the black triangles were triangles which people got who the National Criminal Police turned into the camp, and these people were recorded in the card index file of the National Criminal Police, and I knew that each individual person in such a predicament would have to be judged once a year. And the people who were the red triangle were people who were turned into the camp

by the Gestapo. And the expression, "Main Office of the National Security Service", that is a general title for the big authority, the higher authority, and I know of six big divisions of the Main Office of the National Security Office.

PRESIDENT: The court will recess until one-thirty this afternoon.

(Thereupon at 1200 hours the court recessed until 1330 hours.)

AFTERNOON SESSION

(Thereupon the court reconvened at 1350 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr Berkowitz and Mr Pinter who are absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Neye, Losch, Oswalt, and Lipinski who are ill and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: Continuation of redirect examination, Mr O'Connor.

MR O'CONNOR: May it please the court.

KONRAD BLOMBERG, an accused, voluntarily took the stand in his own behalf and continued to make the following unsworn statement through an interpreter:

REDIRECT EXAMINATION

QUESTIONS BY MR O'CONNOR:

Q Mr Blomberg, prior to the recess of the court you were explaining to the court how the color of the prisoner's triangle was determined at the time of his entrance to Flossenburg. Had you finished your statement?

A I didn't have any influence with the question of triangles. I was never questioned and while I was there the triangles were never changed.

Q Who was it in Flossenburg who made this determination?

A That came from Berlin. It all depended on the authorities which had committed the prisoners and whenever they received their clothes the triangles were put on the clothes right away.

Q Who was it in Flossenburg who issued the triangles.

A Only the Administrative section.

Q Who was it in Flossenburg who made the decision regarding the changing of the color of a prisoner's triangle?

A According to my opinion no one could determine that in Flossenburg because then they would have dodged the check made from Berlin if they had done so.

Q Mr. Blomberg, what do you understand to be the meaning of high justice and low justice with regard to the question put to you by Colonel Burcham as to whether you administered high or low justice?

A High justice and low justice--well, I understand high justice would be supreme authorities and low justice would be lower authorities.

Q Did you ever at any time make any such decision as that?

A No, it was not up to me to make decisions.

MR O'CONNOR: May I have just a moment?

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: The court will come to order.

MR O'CONNOR: If it please the court, Dr Wacker has some questions he wishes to put to this witness on redirect examination.

PRESIDENT: Proceed, Dr Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR WACKER:

Q Mr Blomberg, if you got a request from the Gestapo or the prosecutor's office to interrogate three prisoners and these prisoners made contradictory statements, what was the result of this interrogation?

A I interrogated these people one by one, one right after the other and tried to clear up the contradictions. If I can't clear this completely I will send the file back to the authorities which have requested it and if they are not satisfied they will bring in new evidence.

Q Please explain to the court what you sent back.

A The procedure I sent back.

Q What is the procedure?

A That is the testimony of those I have interrogated.

Q Do you write down the testimony of each individual one even if it is contradictory?

A Definitely. Each one is written down.

Q Do you decide about what is correct and what is not correct?

A No, that is not my business. That is the business of the authorities who have requested it.

Q Do you add any remarks to the record?

A No, I'm not authorized to make such remarks and I did not make them.

DR WACKER: Thank you.

MR O'CONNOR: If it please the court, Mr McKay now has some questions to ask the witness on behalf of the accused Number 20.

PRESIDENT: Mr McKay, proceed.

MR McKAY: On questions brought out by Colonel Skielvig the accused Number 20 has asked me to propound these questions in the nature of cross examination.

QUESTIONS BY MR McKAY:

Q Mr Blomberg, did your office have anything to do with interrogation of prisoners with regard to their nationality or change of nationality during the time that they were in the camp?

A No case of that nature is personally known to me.

Q Did any interrogation arise with regard to Polish people living in the section of Poland conquered by Germany with regard to their citizenship status after the annexation?

A Yes, quite a few.

Q And did you conduct those interrogations?

A It is not known to me they had such cases.

MR McKAY: That is all.

PRESIDENT: Any further questions on the part of the defense in the form of redirect? Apparently not. Recross.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Blomberg, did I understand you to say that you did not know what were the powers of punishment that could be regularly exercised by the camp commandant while you were there?

A I was not informed about his power of punishment.

Q Well, you say you were not informed. Did you know about it?

A Officially not. Only what I heard.

Q What did you hear?

A That many punishments had been ordered by Berlin.

Q You mean many punishments had been first imposed by Koegel and later approved by Berlin, do you not?

A They had been approved first by Berlin.

Q These punishments were recorded were they not?

A Yes, of course after they had been administered they would be taken to the files.

Q And they were kept in your office, were they not?

A The files, yes.

Q And you have seen many of them, have you not?

A Yes.

PROSECUTION: Will you mark this document please, Prosecution's Exhibit Number 84 for identification?

PRESIDENT: What is it?

PROSECUTION: It is a Punishment Form.

(The document referred to was marked Prosecution Exhibit 84 for identification.)

MR O'CONNOR: May I look at it?

PROSECUTION: Yes.

PRESIDENT: The court will take a short recess.

(Whereupon the court took a short recess in place)

PRESIDENT: The court will come to order. Proceed with recross.

QUESTIONS BY PROSECUTION:

Q Blomberg, I hand you a document marked Prosecution Exhibit Number 84 for identification and ask you to examine that and state if you know what it is.

A That is a punishment order for corporal punishment.

Q And you have seen many of those documents before, is that not true?

A Yes, I saw quite a few of them.

Q And this first paragraph here states what?

A This is a printed form and it says here in the first paragraph, "Order of punishment according to the law of punishment for concentration camps, and in view of the power to deal out disciplinary punishment as Camp Commander, I submit that the man who committed the deed will get the following punishment after consideration of the deed".

Q And you had seen many documents such as the one marked Prosecution Exhibit Number 84 for identification which vested in the Camp Commander's various forms of punishment?

A Yes, I saw quite a few of them when they were put into the files later on.

Q So that you know the camp commander had authority to administer punishment in various forms, from arrests up to and including the imposition of the 25, did you not?

A The 25 stick beat strokes had been authorized by Berlin. That is contained in the form.

Q Will you point out to the court anywhere on that document where it says that the 25 strokes must be authorized by Berlin?

A I think this is an old form. Before the beating was administered the doctor had to examine the prisoner and find out if he was physically capable of taking the beating that was being administered to him and also had to give his diagnosis after the beating.

Q When did they change the form?

A As long as I was there we had a different colored form, I believe green or red. This must be an old form because I don't remember the color white. Here it says Doctor's Diagnosis, and here it says Duty Supervisor, and that was an SS General in Berlin. Here it says, "Has been approved", and that must be approved in Berlin.

Q Now, how many different forms of punishment were authorized by the camp commander by this document marked Prosecution Exhibit 84 for identification?

A Six are carried here.

(Blomberg-Recross)

Q You mean arrest doesn't come in there?

A Yes, arrest also. That would be the seventh, arrest.

Q All right, and corporal punishments are not included in that group also?

A That would be the eighth, corporal punishments.

Q And the corporal punishment included the imposition of the 25, did it not?

A That was the only one.

Q That was the only one what?

A Corporal punishment was the 25 strokes with a stick.

Q But the Camp commander had the power to impose that, did he not, as is shown by the document marked Prosecution's Exhibit Number 84 for identification?

A The commandant was the one who carried it out.

Q I didn't ask you that. Answer my question.

A On his own according to this form the commandant couldn't do it.

Q On his own the commandant couldn't do it, is that correct?

A As it says here explicitly, the punishment has to be approved.

Q Certainly. After it was imposed.

A No, before.

Q Is it not a fact, Blomberg, that the document recites that the camp commander has the power to impose disciplinary action, arrest, and corporal punishment?

A He can recommend it, not decide about it.

Q Where does it say that he can recommend it?

A It doesn't say there that he can do it or that he has to do it. It is shown here that a doctor's diagnosis has to be included as well as the supervisor who is on duty has to approve it.

Q It does say there does it not, that due to this power vested in me as camp commander as regards disciplinary punishment, I order, after due contemplation, the following punishments to be inflicted, and it means disciplinary punishment, arrests, and corporal punishment, is that true?

A Yes, that is what it says here.

Q And it does not say "I recommend", but it says, "I order", is that not true?

A I didn't say that.

Q Oh well, let's look over here (indicating).

A It also says here only after the doctor's diagnosis has been included and after it has been approved by the authorities.

Q Does it say "I order"?

A No.

Q What does it say?

A I deal out.

Q I deal out, I administer, is that it?

A If the reasons are there.

Q Nowhere in there does it say, I recommend, is that not true?

A It doesn't say I recommend.

PROSECUTION: We offer at this time, may it please the court, document marked Prosecution's Exhibit Number 84 for Identification with a translation to be offered later, may it please the court, and marked Prosecution's Exhibit Number 84A.

PRESIDENT: Any objection on the part of the defense?

MR O'CONNOR: No, sir.

PRESIDENT: Subject to objection by any member of the court, the court will receive Prosecution's Exhibit Number 84 in evidence and will give it such weight as it sees fit.

MR O'CONNOR: I would like to reserve the right to take the witness on redirect on this exhibit.

PROSECUTION: Of course. No objection.

QUESTIONS BY PROSECUTION:

Q Where the offense in your opinion merited more than 25, you didn't use this form marked Prosecution's Exhibit No. 84, did you Blomberg?

A I, myself, never used this form.

Q Did anyone use that form?

A They were in Department 3, these forms.

Q I hand you a document marked Prosecution's Exhibit 84 and ask you to state whether or not you recognize that signature there?

A That is Koegel's signature, but I don't know who signed those small initials. These forms were used whenever Department 3 applied for disciplinary action against any prisoner.

(Blomberg-Recross)

Q When more punishment than the 25 was considered to be warranted by the offense, what form did they use?

A No form at all.

Q You mean each request then was made up depending on the circumstances of the case?

A I didn't work on penal cases. I can't say much about it.

Q Blomberg, you kept records there in that camp did you not?

A What records? I didn't have anything to do with this kind of thing.

Q Didn't you tell the court before you kept a record in each prisoner's file of the punishments he had received?

A That is correct.

Q Well, then, you did have something to do with these forms, did you not?

A They were just put into the files in our place.

Q You put them into the files, did you not?

A No, I didn't do that myself. I didn't have any time for that.

Q And you never checked anybody's work to see they did it properly did you?

A Yes, I always convinced myself about that.

Q Then tell the court the forms you found, the punishments that were requested in excess of the 25.

A No punishment was dealt out above the 35. I didn't see any.

Q Well now, when this affair at Buelsen took place that was a matter that was dealt with, I believe you testified yesterday, by the camp authorities, is that not right?

A I didn't touch a pen as far as this Buelsen affair was concerned. I didn't have any picture about it. I can't tell anything definite about it.

Q Tell the court what your best judgment about it is.

A I heard in the camp that Buden and the camp adjutant worked on it.

Q And those prisoners that were involved in that affair were executed, were they not?

A A number of them had been executed.

Q And they were executed there in Flossenburg were they not?

A That is right.

Q And you took the records and placed them in the prisoners' files did you not?

A The execution orders were taken to the files.

Q Now tell the court who it was that made the request for the execution of these men.

A The commandant could have done that only.

PROSECUTION: No further questions.

PRESIDENT: Any further questions by members of the court? Colonel Burchum.

(Slomberg-Macrons)

EXAMINATION BY THE COURT

QUESTIONS BY LT COLONEL BURCHAM:

Q How many copies were made out of these investigations you carried on?

A One copy was made when it was important.

Q How many copies of the prisoners' records were there?

A There was just one original.

Q And where was this kept?

A In the files of the prisoners in Department 2.

Q And that was in Flossenburg? Is that right?

A Yes.

Q Then all of the records on each and every individual prisoner there was kept in Department 2 in Flossenburg, is that right?

A That is right.

Q Can you tell me then how Berlin or the people in Berlin could check on any changes in the status of the triangles of these prisoners?

A That is like this: The Reich Criminal authorities have a file card system in which they have the names of all the prisoners with black and green triangles and they knew we had so many prisoners with black and green triangles in the camp. The Secret State Police authorities had the department over red triangles and also their file cards. They were informed about each individual one. We will take a case of this nature: Whenever the camp would have given a green

(Blomberg-Court)

triangle to a prisoner who had a red triangle then the official of the Secret State Police would have lost this man. He wouldn't have any control, an power over him any more, because one inquiry was made once a year about conduct of the prisoners.

Q What was the report that you urged Prohaska to turn in.

A Prohaska didn't make any reports at all.

Q What were the reports you tried to get him to write?

A I never gave orders to Prohaska to make any reports for I had other work to do. It was strictly prohibited for me to have any prisoners work on any kind of report. They had other work to do.

Q Are you sure about that?

A Absolutely.

MR OCONNOR: May it please the court, I think I can clear that up. I think it was a request that he urged Prohaska to make on a number of occasions for a release. If you ask that question I think that is what it was.

PRESIDENT: The court will give you an opportunity to clarify the situation as you see fit in the redirect. Are there other questions by any member of the court? Colonel Skielvig.

QUESTIONS BY LT COLONEL SKIELVIG:

Q Blomberg, what took place whenever you found a prisoner who turned out to be a homosexual during his

stay in Flossenburg? May be it might have a red or green triangle but you found out he was a promiscuous homosexual. What was the procedure to which you had to go to change his triangle?

A. I didn't have anything to do with it because that was the reason the man was delivered to the concentration camp in the first place because of their severe illness, let us put it that way.

Q. I say after he developed into a homosexual after he arrived at Flossenburg. After he got into the camp and developed into a homosexual there.

A. No case is known to me that the color of the triangle changed.

Q. Yet you had homosexuals in Flossenburg that developed there, did you not?

A. Not where I was.

Q. I didn't ask you that. I asked if you knew of any cases?

A. I'll say yes, but not officially.

Q. But you never knew of anybody ever changing their triangle after developing into a homosexual in Flossenburg?

A. Not in Flossenburg.

PRESIDENT: Blomberg, when you took these interrogations did you have a reporter present who took the testimony down word for word?

A. Yes, whenever I had any interrogation I had the reporter into my room. I had the interpreter there and I worked the typewriter myself.

Q You took the statements down word for word?

A Yes, according to the sense, the meaning of it.

Q The meaning had to be right in your opinion, is that it?

A Not according to my opinion but the meaning had to be right according to the facts.

Q Who was to judge that? Was that a decision you had to make whether it was right according to facts?

A Yes, it somehow had to be brought into accordance with the point of the accusation.

Q What the court wants to know is whether or not you took it down word for word and so submitted it to higher authorities. The court is referring to the testimony.

A Whatever he told me I wrote down even though it wasn't quite correct all the time.

Q Did your report generally include the rosy picture that you mentioned here this morning on the first statement indicated by the accused when you interrogated him?

A First I questioned him orally about the facts and then I listened to him what he had to say.

Q But you did not take that down word for word on the typewriter?

A I didn't put it this way, word for word. That is going too far, but according to the meaning.

Q In other words you have included in your report the things you thought should be in there, is that the idea?

A That is saying too much, what I thought was right. The things that are written down in interrogation are facts as been brought out by the man who is being interrogated.

Q But it was not a complete word for word report? That is, of the testimony of the accused or the witness. In other words, you made decisions of what would go into the report and what would be omitted irrespective of what the accused or the witness had stated, is that correct?

A No, that is not correct. Whatever they stated was put in there.

Q You mean to say then that everything that transpired during the course of those interrogations was put into the report word for word, is that what you want to imply to the court now?

A Word for word is saying a little bit too much, but according to the meaning it was put down as what had been described by the prisoner to me.

Q Then when the witness stated something you didn't believe like this rosy picture this morning you didn't include that?

A That was cut down a little bit.

Q You mean you omitted it entirely didn't you?

A Not entirely but only the things concerning facts.

Q Do you believe the higher authorities could get a true picture of the case when the testimony was not forwarded word for word?

(Blomberg-Court)

A. It had been taken down so that they could get a clear picture and I never had any complaints about my modus operandi, my method of work.

Q In other words, Blomberg, you put down such facts as prisoners gave you that would sustain the accusations against him?

A That is not right.

Q You didn't put down such facts then?

A I can't answer anything to that question.

Q You were after facts on which to sustain an accusation from a higher authority were you not? That was the purpose of your investigation.

A I didn't have any interest in that. I questioned these people to the particulars of the accusation, listened to them what they had to say about it and that was all so far as I was concerned.

Q You didn't fail to put down any facts that would sustain any accusation against them though, did you?

A That was in the charges, that was the reason.

QU STIONS BY LT COLONEL BURCHAM:

Q How many cases of theft did you investigate at Flossenburg?

A There were only single ones.

Q How many of these single ones did you investigate?

A Off and on the commandant sent a case to me to clear it up.

Q Do you remember what punishment those people got?

A I know one of them stole a pair of pants once and they sent him to the stone quarry for fourteen days.

Q Is that the biggest punishment that was meted out during these investigation that you carried on?

A I can't say much about that any more today in detail.

Q How often did you go into the Protective Custody Camp, Blomberg?

A I was during one year in there perhaps ten times. I was not issued a pass to enter the Protective Custody Camp.

Q When you went down to the arrest building with Baumgartner did you have a pass at that time?

A I was never in the Protective Custody Camp or arrest building with the Camp Adjutant.

Q What did you go into the Protective Custody Camp for?

A Once in awhile I went to the arrest to question people whose cases had been sent down to me by the commandant. When I couldn't get them any other way I would go down there and pick them up.

Q When you did go into the Protective Custody Camp and arrest building and carry on investigations there?

A I did not carry out any investigations. I took those people along to my office and I interrogated them there.

LT COLONEL BURCHAM: That is all.

PRESIDENT: Any further questions by members of the court? Apparently not. Dr Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR WACKER:

Q Mr Blomberg, is the taking down of the record word for word known to the German courts or German police?

PROSECUTION: I object to that, may it please the court, on the ground that it is irrelevant and immaterial, also leading and suggestive.

PRESIDENT: The objection is sustained on the ground that it is a leading question. Any further questions by members of the court? Apparently not.

MR HALL: I have one question on behalf of the accused I represent.

PRESIDENT: Proceed.

REDIRECT EXAMINATION

QUESTIONS BY MR HALL:

Q Just a moment ago you were having a discussion with a member of the court in connection with a certain unmentionable illness. Do you recall that? Did you know the prosecution's witness, Kurt Goltz?

A No, I only got to know him here.

MR HALL: That is all.

QUESTIONS BY DR O'CONNOR:

Q Blomberg, you were questioned at some length regarding the statements you put into reports when

you made an investigation as to whether or not you put into those statements everything that was said during that interrogation by you and the person being interrogated and your answer was no, that you took it down in narrative form, is that correct?

A That all depended. Whenever someone was talking too much then I would stop him and I would not put any irrelevant material into that, but any things that pertained to facts had to go in there definitely.

Q I want you to look at Prosecution Exhibit 83 and look it over and tell the court whether that represents everything that was said by you and Mr Berkowitz and whoever else was present at the time you signed this statement, Prosecution Exhibit 83.

PROSECUTION: I object to that, may it please the court, on the ground it is irrelevant and immaterial. The document in court is the best evidence of what it purports to be. The document does not purport to be an interrogation by Mr Berkowitz as was contained in the question and is a mis-statement of the record.

MR O'CONNOR: May it please the court, my question did not say Mr Berkowitz alone. I said whoever else was present at the time of that investigation.

PRESIDENT: The objection is overruled.

THE WITNESS: This document was taken down by Lieutenant Paul Guth in his room. Present was the

German Prosecutor, Doctor Leiss, and Lieutenant Guth argued with me and Doctor Leiss took down notes. It was not an interrogation. It was a real fight and argument. Half an hour later Doctor Leiss came in and read something to me that had been taken down by typewriter but it was not the form here and I said, "That is correct". I would never have signed anything like this.

QUESTIONS BY MR O'CONNOR:

Q Does this represent all the statements you made at that time?

A Definitely not.

Q Mr Blomberg, Colonel Burcham asked you about an incident wherein you allegedly urged Prosecution's witness, Prohaska to make certain reports. Do you recall that question?

A Yes, I recall that question.

Q Will you please explain to the court now what you urged Prohaska to do?

A Prohaska had been in the concentration camp about four or five years already and repeatedly he asked me, "Can't anything be done so I could go home"? And there was procedure contained in the file. There was a letter that had been sent by the commandant to Berlin during my predecessor's time and it had been rejected. The commandant was reprimanded. The Reich Security Head Office sent a letter down. "We are the ones to decide about releases and not the camp commander", and I knew about this. I advised him to make a request

to the authorities which had delivered him. I, myself, wanted to help him to send this letter out. So far as I know he did not send the letter but in the fall the Oberregierungsrat Doctor Berndorf, came to us from Berlin. He was the man who worked on the releases in the Reich Security Head Office. Doctor Berndorf was in my office for about an hour in the evening. He looked through our files and file cards. I had the impression that Doctor Berndorf was a very nice, decent, refined, distinguished gentleman and I put the question to him whether we couldn't do anything in this case. I did this unofficially. The Camp commander was not allowed to find out about it. He looked at Prohaska's file and took some notes on it, but he gave me to understand that there were certain difficulties involved in this man's actions and it wouldn't be very simple to get his release.

Q How many times while you were in charge did you urge Prohaska to get a release?

A I believe it was once.

Q Colonel Skielvig asked you a question which in substance stated, Did you only include in your reports of interrogations such facts as would sustain a conviction? Do you recall that question?

A Yes, I recall it.

Q State to the court whether or not any of the persons you interrogated were ever exonerated as a result of your interrogation.

A It is not a job of the criminal police to throw dirt at a man but to clear up the facts. There is a great difference. It was my main job to clarify things one way or the other. Many of them had been cleared, had been washed clean as we say.

Q Subsequent to your interrogation, is that correct?

A Yes, of course. I brought that out in the interrogation quite clear.

Q Mr Blomberg, I hand you Prosecution Exhibit 84 and ask you to look at it. Regardless of whether it was a form like this or one similar to it when did a document as Prosecution Exhibit 84 first come into your hands when you were in Flossenburg?

A These forms came only into my hands when they were taken into the files.

Q Who filled out these forms?

A They were worked on by Department 3.

Q Did you have to fill in anything on that form before it was signed?

A I didn't have anything to do with it.

Q I ask you to refer to the paragraph headed, "Medical Certificate" on Prosecution Exhibit 84.

A That is in the application here.

Q Yes, and I ask you to read that to the court.

A "Medical Certificate. The above inmate was examined by me before punishment. From a medical point of view I found no objection to corporal punishment. I object to using corporal punishment". And so on. "The Camp Surgeon".

Q Who has to sign that?

A The camp doctor has to sign that.

Q Now I ask you to read the paragraph entitled, "Officially approved".

A "Officially approved. Corporal punishment is not approved after consideration of crime and medical certificates".

Q Now, who signed this?

A That was signed in Berlin. It says here the leader of the SS Dead Head Units in concentration camps.

Q What is the last signature appearing at the bottom of the page?

A Signature of the camp commander.

Q Mr Blomberg, can you tell the court whether or not that punishment certificate was signed first by the SS eneral in Berlin or first by Koegel?

A This application has to be signed by the commandant otherwise Berlin won't accept it.

MR O'CONNOR: No further questions.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q I hand you Prosecution Exhibit Number 83 and ask you to state if it isn't a fact that you made the correction there on the first page and initialed it with your initials.

A Yes, that is correct.

Q You read it over, didn't you?

A No, I didn't read it myself.

Q Why was it you burned the records of your office?

A We had orders.

PROSECUTION: No further questions.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR O'CONNOR: I have nothing further except pursuant to permission granted by the court yesterday I have a photograph of Defense Exhibit 61 and I ask at this time this photograph of Document 61 be substituted for the original.

PRESIDENT: Is there any objection on the part of the prosecution?

PROSECUTION: None, sir.

PRESIDENT: Subject to objection of any member of the court, the court will receive in evidence the photostatic copy of Defense Exhibit Number 61 and the court will permit the defense to withdraw the original of Defense Exhibit 61.

PROSECUTION: May it please the court, the jurat on the document that was offered this morning as Prosecution Number 83A has been changed and a new jurat has been substituted. We ask leave to have the document which was previously introduced in evidence withdrawn and the present document substituted therefor, the only change being in the jurat and the initialing

by the translator of the word "December" which was changed to "January" in the jurat of the interpreter.

PRESIDENT: Any objection?

MR O'CONNOR: No, sir.

PROSECUTION: Will you mark this please Prosecution Exhibit 83A, Miss Reporter?

PRESIDENT: The request of the prosecutor is granted. Subject to any objection by any member of the court the court will receive in evidence Prosecution Exhibit 83A and give it such weight as the court sees fit.

(The document heretofore marked Prosecution 83A for identification was received in evidence as Prosecution Exhibit 83A, is attached hereto, and made a part of the record.)

PRESIDENT: The court will take a half hour recess.

(Whereupon at 1500 hours the court recessed until 1530 hours)

CAMP DACHAU, GERMANY
3 December 1946

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: Let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, with the exception of Mr. Denson and Mr. Pinter, who are absent on business of the prosecution, all the members of the defense are present, with the exception of Colonel Wilson, who is absent on business of the accused, all the accused are present, with the exception of Losch, Lipinski and Oswalt, who are ill and whose interests are being taken care of by counsel, a sworn court reporter and interpreter are present.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave.

PRESIDENT: The defense, Mr. O'Connor.

KONRAD BLOMBERG, an accused, resumed the stand and testified further through an interpreter, as follows:

MR. O'CONNOR: Reporter, mark this Defense Exhibit 63, it being a sworn statement of Mr. Edwin Rostler taken by War Crimes Investigator Joseph Kirschbaum in Vienna, Austria. This witness is unavailable to testify. At the same time, I ask the reporter to mark the English sworn translation as Defense Exhibit 63A.

(Thereupon the documents referred to, being the sworn statement of Edwin Rostler and the English translation thereof, were marked Defense Exhibits 63 and 63A for identification.)

MR. O'CONNOR: At this time, I offer into evidence said documents marked as Defense Exhibits 63 and 63A.

PRESIDENT: Are you offering them for identification at the present time, or into evidence?

MR. O'CONNOR: I am offering them into evidence prior to having it read.

PRESIDENT: Is there any objection on the part of the prosecution?

PROSECUTION: If the court please, this statement appears to have been taken in Vienna by Mr. Kirschbaum on the 17th of July, 1946. In September, 1946, I went to Vienna for the purpose of cross examining any persons who may have given Mr. Kirschbaum statements at that time. I asked for the statements which had been given Mr. Kirschbaum and received two or three of them. However, this one was not given to me, and no opportunity was had by the prosecution to cross examine this Mr. Hestler, the prosecution not knowing of the existence of the statement. I merely make this statement; I will not object to its introduction at the present time.

MR. O'CONNOR: For the purpose of the record, I would like to say something now. I knew nothing about the incident the prosecution refers to at this time, as I was not, at that time, representing Mr. Blemberg.

PRESIDENT: The court understands, Mr. Berkowitz, there is no objection on the part of the prosecution?

MR. BERKOWITZ: No, sir. I just wanted to make the statement that the prosecution had no opportunity to examine the witness.

PRESIDENT: Subject to the objection by any member of the court, the court will receive in evidence Defense Exhibit 63 and, also, Defense Exhibit 63A, and will give these exhibits such weight as the court sees fit.

(The documents heretofore marked Defense Exhibits 63 and 63A for identification were received in evidence as Defense Exhibits 63 and 63A , are attached hereto, and made a part of the record.)

MR. O'CONNOR: At this time, the defense requests that the interpreter be permitted to read the English translation of Defense Exhibit 63A.

PRESIDENT: You may proceed.

(Whereupon Interpreter Stecher read Defense Exhibit 63A, the English translation of the statement of Edwin Hestler, as follows:

"TRANSLATION OF SWORN STATEMENT OF EDWIN HESTLER

"Before me, Joseph KIRSCHBAUM, U.S. Civilian, being authorized to administer oaths, personally appeared Mr. Edwin HESTLER who, being by me first duly sworn, made and subscribed the following statement in his own handwriting:

'I, Edwin ROSTLER, born 23 May 1913 in Vienna, Austrian citizen, residence at Vienna VI, 12/1 Köstlergasse, was an internee of the Flossenburg Concentration Camp from 21 September 1944 until 23 April 1945. (Prisoner's Number 27298.)

'I spent the first days in the block for new arrivals and then in block IV. Short time later I was transferred to block XVIII. There I stayed until the beginning of March 1945. For the last time I was transferred to block III and stayed there until the camp was evacuated.

'For the first time I was assigned to the Altenhammer detail. Subsequently I was assigned to the Meterpool detail as a clerk.

'In February 1945 I was summoned to the political department (Dep. II) in order to clarify a question concerning a matter of my professional practice. The interrogation was conducted by criminal-police-secretary BLUMBERG, Konrad, approximately 45 years of age, height: medium to short. This interrogation lasted about half an hour. It went off in a very objective manner. By no means was I subject to any methods of interrogation as to beatings, insults or other mistreatment which, according to my experiences made during interrogations by other Gestapo officials, I really had expected and feared.

'This statement was written by me on one page, in my own handwriting at Vienna VI, Austria, 12/1 Köstlergasse, on this 17th day of July, 1946, 1430 hours, voluntarily and without compulsion. I swear by God, the Almighty, that I said nothing but the pure truth, did not keep anything secret nor added anything.'

/s/ ROSTLER

'Subscribed and sworn to before me
at Vienna, Austria, this 17th day
of July 1946.'

/s/ JOSEPH KIRSCHBAUM (signature)
Joseph KIRSCHBAUM

'I, Maria Melzel, being first duly sworn, state that the foregoing is a true and correct translation of the sworn statement of Edwin ROSTLER, given at Vienna, Austria, on the 17th day of July 1946, made to the best of my ability.

MARIA MELZEL (signature)
Maria MELZEL
Interpreter, War Crimes Group

'Subscribed and sworn to before me at Dachau, Germany, this 26th day of July 1946.'

JOSEPH KIRSCHBAUM (signature)
Joseph KIRSCHBAUM'

MR. O'CONNOR: May it please the court, I ask the reporter to mark this document Defense Exhibit 64 for identification, and the sworn English translation as Defense Exhibit 64A for identification.

In numbering the pages the following numbers were inadvertently omitted:

7523 - 7524 - 7525 - 7526 - 7527 - 7528 - 7529

7530 - 7531 - 7532

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

The court has appointed Captain Leopold Lukasika as interpreter. He will be sworn.

(Captain Leopold Lukasika, a Czechoslovakian national, was sworn as interpreter.)

MR. O'CONNOR: May it please the court, this is a sworn statement of Stefan Frantisek taken in Prague by War Crimes Investigating Officer Joseph Kirschbaum.

(Whereupon the documents referred to, being the sworn statement of Stefan Frantisek and the English translation thereof, were marked Defense Exhibits 64 and 64a for identification.)

PRESIDENT: Is there any objection on the part of the prosecution?

PROSECUTION: May it please the court, the statement is in Czechoslovakian, and the jurat is in English, without any indication that the purport of the oath was understood by the man who subscribed to the statement. However, in view of the difficulty in getting Mr. Kirschbaum in here to explain the situation, I will not raise any objection to it at this time.

PRESIDENT: Subject to any objection by any member of the court, the court will receive Defense Exhibits 64 and 64A in evidence as Defense Exhibits, and will give these exhibits such weight as the court sees fit.

(The documents heretofore marked Defense Exhibits 64 and 64A for identification were received in evidence as Defense Exhibits 64 and 64A, are attached hereto, and made a part of the record.)

MR. O'CONNOR: May it please the court, I ask the interpreter at this time to read the statement of Stefan Frantisek in English.

(Whereupon Interpreter Steeker read Defense Exhibit 64A, the English translation of the statement of Stefan Frantisek, as follows:

"TRANSLATION OF SWORN STATEMENT OF FRANTISEK STEFAN.

"Before me, Joseph KIRSCHBAUM, U.S. Civilian, being authorized to administer oaths, personally appeared Frantisek STEFAN who, being by me first duly sworn through an interpreter made and subscribed the following statement in his handwriting:

"I, Frantisek STEFAN, born 15 December 1911 at Breznice, Czechoslovak citizen, living in Prague XVI, 233 Vyschen Street, was in concentration camp Flossenburg from 1943 until 26 April 1945. During that time - it was some time in winter 1944 - I learned to know BLOMBERG, Chief of Political Department, in concentration camp Flossenburg. He sent for me at 0800 hours and questioned me about what I knew of an identity card issued under a false name by the police station at Prague-Mala Strana. I replied that I hadn't seen this identity card issued under a false name before nor heard about it. He shortly told me that he would write a record on this matter and eventually I had to read and sign the record. Never in the course of that interrogation he pressed me to say anything nor did he endeavor to get the truth out of me. When I reported, upon leaving, as it was ordered in the concentration camp, he said, "Auf Wiedersehen" (Good-bye).

"As I learned from Czech fellow-prisoners, BLOMBERG behaved in a decent way.

"This declaration was upon my request typed on one page, in order to save time, in Prague I., 6 Bartholomew Str., on 30 August 1946 at 1530 hours. I swear by God, the Almighty, that I said nothing but the pure truth, did not keep anything secret nor shall add anything to my testimony, and that I made this testimony voluntarily and without compulsion."

/s/ Frantisek STEFAN

"Subscribed and sworn to before me at Prague II, Czechoslovakia, this 31st day of August 1946."

/s/ Joseph KIRSCHBAUM
Investigating Officer

"I, Dr. Fred FRANKL, being first duly sworn, state that the foregoing is a true and correct translation of the sworn statement of Frantisek STEFAN given at Prague, Czechoslovakia, on the 31st day of August 1946, made to the best of my ability.

/s/ FRED FRANKL (signature)
Dr. Fred FRANKL, Translator
War Crimes Group, Dachau

"Subscribed and sworn to before me at Dachau, Germany, this 30th day of September 1946.

/s/ JOSEPH KIRSCHBAUM (signature)
Joseph KIRSCHBAUM
Investigating Officer."

MR. O'CONNOR: That is all I have, sir.

PRESIDENT: Recross examination?

PROSECUTION: No, sir.

PRESIDENT: Any questions by any member of the court? Apparently not.

The court understands that the defense is finished with this particular witness for the time being?

MR. O'CONNOR: Yes, sir.

PRESIDENT: Mr. Blemberg, the court will give you an opportunity at the present time to make an explanation or any statement you see fit to make.

ACCUSED BLOMBERG: I do not believe that the court has a clear picture of my activities in the concentration camp, and I ask to be granted permission to make a few remarks about that.

PRESIDENT: You may proceed.

ACCUSED BLOMBERG: I can state with good right that I was the workman in the concentration camp. I worked from morning until night. If there was anything special, I had to do it. Everyone asked me for my advice. I had enough people, but none of them could make a short report. I had to dictate everything, conduct investigations and interrogations with the prisoners. I kept that to myself. I did not let anyone else do that. All my work was sent down to me from headquarters and we had to return it to headquarters. Whatever they requested me to do I did and I had to do it. There were no personal opinions on my part involved whatsoever. It was forbidden for me to make any recommendation in reports of any kind and the commandant would never have given me permission to do that. Our main activities were the file cards and the files. Every day we received a new, huge pile of papers that had to be put to the files, and with all the activities that went on in the camp in the Summer and Fall of 1944, we had our hands full. I personally had plenty of trouble and was held responsible for everything. Personally, the only thing I could do was the only thing to do, work. So far as the Form 84 was concerned, I did not have anything to do with that whatsoever. After these things had been carried out, we received the form to put to the files, and it was not my activity to take any penal steps

against any inmate of the camp. In individual cases whenever the commandant was not clear on a certain point, he would send these cases down to me to clarify it. Whatever has been brought up so far by the prosecution's witnesses, none of them were positive about it and none could appear here and state I had mistreated anybody, and there won't be anyone here in future times who could state that. On the contrary, I would like to say that people came to me, someone to get me to send letters for them. Not only that but whenever there was any other matters they would come to me, such as family affairs. All of them trusted me and wanted my advice. None of them were refused, and as far as I could help anyone I did it. If it could not be done in official channels then it was done some other way by cheating. I don't have anything else to say at the present time.

DR. MARX: Blumberg, in your statement you referred to Form 84 and I assume you mean Prosecution Exhibit 84, do you not?

ACCUSED BLUMBERG: That is true, yes.

PRESIDENT: Does the defense have anything further?

MR. O'CONNOR: No, sir.

PRESIDENT: Does the prosecution have anything further?

MR. BARKOWITZ: No, sir.

PRESIDENT: The court understands that the defense has nothing further with this witness?

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused and take his place in the dock.

(Thereupon the witness was excused and resumed his place in the dock.)

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place.)

PRESIDENT: The court will come to order.

DR. MARX: As our next witness I call Heinrich Fraas, whom I want to interrogate on behalf of the accused Sedak. This witness has been sworn in previously and has been interrogated by the court.

PRESIDENT: The court cautions you, Mr. Fraas, that you are still under oath.

THE WITNESS: Yes, sir.

PRESIDENT: You may proceed.

HEINRICH FRAAS, recalled as a witness by the defense, having been previously duly sworn, resumed the stand and testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Mr. Fraas, what is your full name?

A Heinrich Fraas.

Q How old are you?

A In my 69th year.

Q Are you married?

A Yes.

Q Where do you live?

A In Flossenburg.

Q Did you at any time have anything to do with the concentration camp, Flossenburg?

A As civilian master in the stone quarry.

Q What did you have to do there?

A I had to teach the prisoners.

Q During what time were you in the stone quarry as civilian master?

A From 29 October 1941 until 15 April 1945.

Q In what quarry were you?

A Quarry 2.

Q Did you ever learn to know a man by the name of Wodak in quarry 2?

A Superficially.

Q Would you recognize him?

A Yes.

Q Take a look among the accused and if you see him, point him out.

A The third man from the left in the upper row (indicating).

Q What number does he have?

A Number 50.

DR. ENGELHORN: The witness has identified Number 50 as being Wodak.

QUESTIONS BY DR. ENGELHORN:

Q What was Wodak's capacity in the stone quarry?

A He was supervisor.

Q Were you in the stone quarry every day?

A Yes.

Q From when until when were your work hours?

A From 7 A.M. to 5 P.M.

Q What were the work hours of the prisoners?

A Also from 7 in the morning until the evening.

Q Were you in quarry 2 in December, 1942?

A Yes.

Q Can you remember if anything unusual happened there at that time?

A No.

Q If a prisoner had been beaten to death in December, 1942, in the stone quarry, would you have had to see it?

A Yes.

Q How large is the quarry?

A The stone quarry has a circumference of about 50-60 meters.

Q Is it even?

A Yes.

(Fraas - Redirect)

Q Can you look over everything ?

A Yes.

Q Did you hear that about a Russian prisoner being beaten to death by Wedak in December, 1942?

A No. I never saw that.

Q You didn't hear about it?

A And I didn t hear about it.

Q Were you the only civilian master in the stone quarry?

A Yes.

Q Were there any other masters outside of you?

A About 50 or 60 meters away.

Q What were their names?

A Michael Daeckel from Flossenburg.

Q Was anyone else there?

A No one else was there. No other civilians.

Q Was there another quarry master working there?

A He was there but only for a short time. At one time he was in quarry 1 and the one time he was in quarry 2.

Q What was the quarry master's name?

A His name was Fritz Schnappauf.

Q Was he the only one or was there another one yet?

A There was a second stone quarry master by the name of Seiler.

Q Did you ever find out whether these stone quarry masters ever heard anything about someone being beaten to death there in the quarry?

A No. They didn't see anything or hear anything.

Q How do you know they didn't see anything or hear anything?

A I personally contested those two upon my return from my first trial here and I asked them whether they had heard or seen any such thing.

Q What did they tell you?

A They gave me the same answer as I had given, that I had not ever heard of such a case.

DR. ENGELHORN: No further questions.

PRESIDENT: Cross Examination.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Which of these gentlemen did you talk to?

A With quarry master Schmappauf and quarry master Seiler.

Q What did you ask them?

A I asked them whether they had ever heard about a case, or seen a case where a Russian had been beaten to death.

Q Did you ever ask them if they had ever seen a prisoner beaten?

A No. I didn't ask them that.

Q Your inquiry limited itself to whether they had ever seen a Russian beaten, is that it?

A I only inquired about the case Wodak, not any other case.

Q What was the case of Wodak as you understood it and as you discussed it with these gentlemen?

A I questioned these two gentlemen in the same manner as I had been questioned by the lawyer.

Q Will you explain what you asked these gentlemen about Wodak?

A I asked them about this one case - whether they had ever seen or heard anything about that case.

Q How did you describe that case to these gentlemen?

A I asked these two stone quarry masters whether they had ever seen any such case or had heard any such case in my place of work.

Q Did these gentlemen work in the same place you did?

A Not always.

Q Did you ask them if they know of a man being beaten to death?

A Only about this one case as I have testified before about it - case Wodak.

Q Did you work inside or outside?

A On the outside.

Q Were there any buildings in quarry 2?

A No. That was open territory.

Q Did Kodak have a place in the clerk's office or a room somewhere in the neighborhood of the quarry?

A That is not known to me.

Q If, as has been testified, in December of 1942 he had dragged a Russian into his room and had beaten him into unconsciousness until he died, would you have seen that?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY DR. SNOMIHOWN:

Q If such a thing had happened, would that have become known in the stone quarry?

A Yes.

Q Did you observe whether Kodak had any weapons on him when he worked in the stone quarry?

A Yes, they had a weapon. A revolver.

Q Did he have anything else with him outside of his revolver?

A No.

Q Did any prisoner die during all the time you worked in the stone quarry?

MR. BERKOWITZ: If it please the court, I hesitated to object to the constant leading of the witness, but I do impose an objection at this time.

PRESIDENT: The objection is sustained.

DR. SNOMIHOWN: I should like to make a basic explanation as far as this objection is concerned.

PRESIDENT: The objection is already sustained. Proceed and rephrase your question, please.

PRESIDENT: If you are having any particular difficulty with this particular witness, state it to the court. If that is the case, the court will reconsider the matter of leading questions.

DR. ANGELHORN: I just wanted to explain the following to the court. This man is a man who has grown up in the country and he probably has never had any activities as far as mental activities are concerned. He is almost 70 years of age and hard to understand. For that reason, I have to make my questions clear for the man to understand them. Otherwise, I would not be able to interrogate him.

PRESIDENT: All right, Doctor. The court will keep that in mind as far as possible, and will give you consideration. You may proceed.

QUESTIONS BY DR. ANGELHORN:

Q Did you ever notice if Wodak had anything in his hand other than a revolver with which he could beat?

MR. BERKOWITZ: I object to that as leading and being repetitious.

PRESIDENT: Under the circumstances, the objection is overruled.

THE WITNESS: I never saw any other weapon or a rubber club.

DR. ANGELHORN: Thank you. No further questions.

PRESIDENT: Recross examination?

MR. BERKOWITZ: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Mr. Frass, how did you come to discuss Wodak's case with these various other civilians around there - these masters?

A Because I wanted to find out in my home town if they had seen any such things.

Q When did you discuss these matters?

A That was in September of this year.

Q Was that after you appeared here as a witness?

A After. Yes.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q Did Wodak wear gloves on his hands in December, 1942?

A Unfortunately, I cannot remember that.

Q Did you ever see or hear of any beating in the quarry 2 in December, 1942?

A Yes, by the capos.

Q Only the capos?

A Only the capos.

Q What did they beat with?

A They, on the average, beat with the rubber clubs.

Q Did you ever see beatings at any other time than in December of 1942?

A Yes. Later on when the stone quarry was decreased to just quarry 1.

Q Did you ever see or hear of beatings before December, 1942?

A Very few or none at all.

Q Who did the beatings?

A I didn't see anyone else but the capos.

Q Did you ever hear of a civilian master being relieved because he had done beatings in the quarry?

A No.

LIEUTENANT COLONEL BURCHAM: No further questions.

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q Were those beatings you have just testified to as being done by the capos, done by the same capos against whom you testified previously?

A Yes.

LIEUTENANT COLONEL SKIELVIG: No further questions.

PRESIDENT: Any further questions by any member of the court? Apparently not. Redirect examination.

DR. ENGELHORN: No further questions.

DEFENSE COUNSEL: May I have a few minutes, sir?

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

MR. McKAY: May it please the court, I would like to examine this witness on behalf of the Accused Number 21. This is in the form of cross examination by reason of the facts brought out by the questions of the court.

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Mr. Frass, do you remember the names of the capos you saw beating?

A I can't recall the names of the people.

Q What was the nature of those beatings?

A Whenever something happened in the stone quarry; for instance, if the bread was stolen from any of the prisoners, he would report that and then the capo of the stone quarry would beat him.

Q How were these beatings administered?

A The beatings were mostly administered in the crane house.

Q Will you describe what instruments were used by the capos to administer the beatings?

A The rubber club.

Q How many of these did you see?

A Only in cases whenever one prisoner would steal the bread of another or when a prisoner would eat surplus vegetables which was forbidden.

Q Did you observe the results these beatings had on the prisoner?

A The result of these beatings is not known to me because it was the prisoner who had to take the beating, so I can't say much about it.

Q Did you ever observe a prisoner fall to the ground as a result of one of these beatings?

A No.

(Frass - Redirect)

Q Did you ever observe if the prisoner was unable to return to his work as the result of one of these beatings?

A He had to return to his work.

Q During the time you were in the stone quarry, do you know of any of the personnel who had to be removed because of the fact they beat prisoners?

A No.

Q Did you ever observe any beating other than for the reasons you have given us?

A No.

MR. McKAY: That is all.

PRESIDENT: Repress examination.

REGROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Frass, how did you know the reasons for which people beat the prisoners?

A Because he was supervisor of my place of work.

Q Well, did you hear him charge the prisoners with the accused offenses?

A I did not hear that.

MR. BERKOWITZ: Nothing further.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q You assumed that was the reason why these prisoners were beaten, did you not?

A I assumed that and I asked people about that quite often.

Q Because you can't remember off-hand about Kodak beating, you are not assuming that it could not have happened, are you?

A I can't remember and I haven't seen anything.

LIEUTENANT COLONEL BURCHAM: That is all.

PRESIDENT: Any further questions by any member of the court?

MR. McKAY: Nothing further.

DR. ENGELHORN: No further questions.

PRESIDENT: The court understands that the defense is finished with this particular witness?

MR. McKAY: Yes, sir.

DR. ENGELHORN: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

DEFENSE COUNSEL: The defense calls as its next witness, Edith Guerth, on behalf of the Accused Number 40.

PRESIDENT: The court will adjourn until 0900 hours, tomorrow morning.

(Whereupon at 1700 hours the court adjourned until 0900 hours, 4 December 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13 (NO) Legal Form No. 85PA

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

Pages 7547 - 7637 Incl.

Case No. 1

~~*Summary~~
~~*Intermediate~~ *Military Court.
*General

Place Dachau, Germany

Date 4 December 194 6

Prosecutor

Defence Counsel

Interpreter

Reporter

~~*Members of Court.~~
WITNESSES:

GUERTH, Edith
SCHNADERBECK, Michael
MONSKA, Hans
KLINKERT, Richard
FREESE, Otto
DAHLKE, Hermann

Accused FRIEDRICH BECKER, et al

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES VERSUS FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

4 DECEMBER 1946 0900 - 1700 hours Pages 7547 - 7637 Incl.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
GUERTH, Edith	7547				
SCHNADEBRUCK, Michael	7552	7559	7572		7573
WONSKA, Hans			7575 7589	7580 7589	
KLINKERT, Richard	7590 7612	7613	7619	7621	7620
FRERSE, Otto			7622	7626	
DAHLER, Hermann	7628				

EXHIBITS

No.	Description	Marked	Received in Evidence
D-65	Surgical operation records	7548	
D-65-A	English translation of D-65	7548	
D-85	Folder - Berger's personal file	7563	
D-61-A	English translation of D-61, copy of order reporting Fritz Multhaupt to Flossenburg	7622	7622

RECORD OF TESTIMONY

in trial of

THE UNITED STATES VERSUS FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

4 DECEMBER 1946 0900 - 1700 hours Pages 7547 - 7637 Incl.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
GUERTH, Edith	7547				
SCHNADERBECK, Michael	7552	7559	7572		7573
WOWSKA, Hans			7575 7589	7580 7589	
KLINKERT, Richard	7590 7612	7613	7619	7621	7620
FRERSE, Otto			7622	7626	
DAHLKE, Hermann	7628				

EXHIBITS

No.	Description	Marked	Received in Evidence
D-65	Surgical operation records	7548	
D-65-A	English translation of D-65	7548	
D-85	Folder - Berger's personal file	7563	
D-61-A	English translation of D-61, copy of order reporting Fritz Multhaupt to Flossenburg	7622	7622

Camp Dachau, Germany
4 December 1946

MORNING SESSION

(Whereupon the court reconvened at 0905 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all the members of the court are present, that all the members of the prosecution are present with the exception of Mr. Denson and Mr. Pinter who are absent on business of the prosecution, that all the members of the defense staff are present, and that all the accused are present with the exception of Lipinski, Losch, Oswalt, Risbusch, Mussfeldt and Joseph Becker who are ill, and Retzlaff and Bongartz who are in arrest in the bunker. The interests of these accused are being taken care of by their respective counsel.

If there are any spectators here who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Defense.

MR. HALL: If the court please, the next witness to be called by the defense is Edith Guerth in behalf of the accused Schmitz.

PRESIDENT: Proceed.

EDITH GUERTH, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name?

A Edith Guerth.

Q Your age?

A 34.

Q What is your present address?

A Floss ober Pfalz.

Q Are you employed at the present time?

A No.

Q Do you know a man by the name of Heinrich Schmitz?

A Yes.

Q Will you please look in the dock and see if you can identify him?

A There (indicating).

Q The number, please?

A 40.

MR. HALL: Let the record show that the witness has correctly identified the accused Schmitz.

QUESTIONS BY MR. HALL:

Q You were engaged to be married to Dr. Schmitz, were you not?

A Yes.

MR. HALL: I hand to the reporter a document consisting of 31 typewritten pages in German, purporting to be certain surgical operation records, and also another document consisting of 40 typewritten pages in English, purporting to be a translation of the German document. Will the reporter please mark these documents as Defense Exhibits 65 and 65-A, respectively, for identification?

(The documents referred to were marked Defense Exhibit No's. 65 and 65-A for identification.)

QUESTIONS BY MR. HALL:

Q I show you Defense Exhibit 65 marked for identification and ask if you know what that is?

A Yes.

Q What is that document?

A They are copies of the operations that were made in Flossenburg.

Q When was the last time that you saw this document before coming to Dachau recently?

A I saw them when the suitcase was opened in the presence of Mr. Kirschbaum and Major Oeding.

Q Do you know who brought the document to Dachau?

A I brought part of them, Kirschbaum brought the other part.

Q You say the document was in a suitcase. Where was this suitcase?

A With me.

Q Where?

A In my house.

Q In what town?

A In Floss[illegible].

Q Now where did the suitcase come from?

A I, myself, brought the suitcase out of the camp of Flossenburg.

Q To whom did the suitcase belong?

A Dr. Schmitz.

Q When did you remove the suitcase to your home in Floss?

A On the 26th of March, 1945.

Q Approximately when was it that Mr. Kirschbaum and Major Oeding obtained the document from you?

A Around the 8th or 9th of August, 1946.

Q During the two dates you have just mentioned, where was this suitcase?

A First in Flossenburg. I first lived in Flossenburg and

then I moved to Floss.

Q Do you know a man by the name of Boris Bollak?

A Yes.

Q Will you please spell that name the best you can?

A B-o-r-i-s B-o-l-l-a-k.

Q Do you claim that to be the correct spelling or merely the best of your ability of spelling that name?

A No, I don't know. I am estimating it.

Q Did you have a conversation with that individual?

A Yes.

Q Approximately when was that conversation?

A May or April, 1946.

Q Where?

A In my house in Floss.

Q Who was present?

A A female colleague of mine, my tailor.

Q What was her name?

A Mrs. Luisa Zeppmeisel.

Q Please describe the nature of that conversation.

A Boris Bollak came to me around 9 o'clock and said he wanted to have the operation book of Dr. Schmitz--no, he didn't say that. He said he wanted to have any documents I might have and that he worked here in Dachau with the court and since the suitcase was locked and I couldn't show him the documents in there, I showed him the operation book.

Q Would you please describe this book with reference to its size in centimeters?

A The book was 35 to 40 centimeters long, 3 centimeters deep and 15 to 20 centimeters broad.

Q Do you recall the color of the binding of the book?

A Black.

Q Had you ever seen the inside or the contents of the book?

A Yes.

Q Do you know--were the contents typewritten or written in free-hand?

A Free-hand.

Q Do you know in whose handwriting the entries were made?

A Dr. Schmitz did that himself.

Q Was there any writing on the book that would indicate the purpose for which the book was used?

A The operations were in there; who had carried out the operations; how long the operations had lasted and who had died from the operations.

Q Where is this man, Bollak, today?

A Last week, the mayor of Flossenburg told me he could be located in Regensburg.

Q Had you ever seen him before that particular incident?

A Yes.

Q Under what circumstances?

A He was very often in Floss. He came there quite often in his Jeep, and I also saw him in Flossenburg a few times.

Q Now by Jeep, do you mean the small American-type automobile?

A Yes.

Q Do you know, or have you ever heard by whom he was employed at that time?

A He was up there with the Americans in the camp.

Q In what camp?

A In Flossenburg.

MR. HALL: If the court please, Defense Exhibits 65 and 65-A will not be offered at this time, but at a later period. You may cross-examine.

MR. BERKOWITZ: Will the court allow me just a moment to examine this record?

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed at 0920 in place.)

(Whereupon the court reconvened at 0930 in place.)

MR. BERKOWITZ: No questions.

PRESIDENT: Redirect?

MR. HALL: Nothing further.

PRESIDENT: Questions by members of the court? Apparently not. The court understands that the defense is finished with this witness.

MR. HALL: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom.)

PRESIDENT: Defense.

DR. WACKER: The witness, Michael Schnaderbeck will now appear for the accused Franz Berger.

PRESIDENT: The witness will be sworn.

MICHAEL SCHNADERBECK, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Michael Schnaderbeck.

Q Please spell your last name.

A S-c-h-n-a-d-e-r-b-e-c-k.

Q How old are you?

A 29 and a half years old.

Q Are you married?

A No, single.

Q What is your profession?

A I am a merchant's apprentice.

Q Where is your residence?

A In Lenggries.

Q Where are you presently located?

A Camp O.

Q Are the American authorities holding you in arrest?

A Yes.

PRESIDENT: The court at this time wishes to inform the witness that if he is asked any questions which might tend to incriminate him, he has a right to ask the court to refrain from answering that particular question.

WITNESS SCHNADERBECK: Yes, sir.

PRESIDENT: Do you understand?

WITNESS SCHNADERBECK: Yes, sir, I do.

QUESTIONS BY DR. WACKER:

Q Were you ever in Flossenburg?

A Yes.

Q In what capacity were you there?

A First as a guard and starting with the 15th of August, I worked in the personnel section.

Q What year are you talking about?

A 1944.

Q Where were you before you came to Flossenburg?

A I was with the Wehrmacht, the army.

Q Were you with the SS?

A Yes.

Q Is that the Allgemeine SS or the Waffen SS?

A Waffen SS.

Q When did you go into the Waffen SS?

A On the 29th of May I was ordered to go there and the transferral took effect on the 1st of September, 1944.

Q Before that, what part of the armed services were you with?

A Infantry.

Q Are you a member of the party?

A No.

Q Are you a member of the SA?

A No.

Q You were not with the Allgemeine SS either?

A No.

Q What rank did you have in Flossenburg?

A First Sergeant.

Q What were your duties in Flossenburg?

A First of all, I was in the guard battalion and later on in the personnel section.

Q Do you know a Major Berger?

A Yes.

Q Please point him out if you see him.

A Here, No. 3 (indicating).

DR. WACKER: Let the record show that the witness has correctly designated the accused Franz Berger, No. 3.

QUESTIONS BY DR. WACKER:

Q Do you know when Berger came to Flossenburg?

A It was around the beginning of December, 1944.

Q What rank did he have when he came to Flossenburg?

A SS Major.

Q What duties did Berger then have?

A At the beginning of his arrival, he didn't have any duties at all.

Q What do you mean when you say at the beginning?

A On the 7th of January, 1945, the commandant's office put out an order according to which he took over charge of the guard battalion.

Q How does it happen that you know that date so exactly?

A I wrote the order myself and during an interrogation, it was presented to me.

Q Where did you work at that time?

A In the personnel section.

Q Where was that located in Flossenburg?

A In the second story of the commandant's office.

Q Where did Berger work?

A Berger was with us but at that time he didn't have any duties at all.

Q Afterwards, where did Berger work?

A After that, he sat across from me at the desk.

Q You spoke of an order which came out on the 7th of January, 1945. Please tell us what was in this order if you can remember.

A The order read that Berger would be set in as commander of the guard battalion and besides that the names of the individual

company leaders were counted off, and besides that there was a note that when Koegel was away, Berger would be his deputy.

Q Do you know why Berger was named as deputy to Koegel?

PROSECUTION: I object to that, may it please the court, as calling for a conclusion from the witness, and also that it invades the province of the court.

PRESIDENT: Objection overruled.

WITNESS SCHNADERBECK: At that time, Koegel was planning to make a long trip to outside camps and his adjutant was supposed to go along with him.

QUESTIONS BY DR. WACKER:

Q Why do you mention the fact that the adjutant was to go along with him?

A Well, as a rule, the adjutant was a deputy of commandant Koegel.

Q Do you know if that was the reason why Berger was named deputy to the commandant when the commandant was absent?

A I assumed that.

Q Did Koegel and his adjutant make this journey?

A They kept putting off this trip and at the end, they never did make it at all.

Q Did Berger ever take charge of the personal affairs of the commandant Koegel at all?

A I don't know of any time that he ever did.

Q Do you know if Berger had other duties besides being in charge of the guard battalion?

A Yes, he had to see to it that families of the members of the SS received quarters and he had to see to their welfare.

PRESIDENT: Just a minute, Dr. Wacker. That one question is not clear in the minds of the court. You said personal affairs, or official duties?

DR. WACKER: I will ask another question.

QUESTIONS BY DR. WACKER:

Q You said that Berger received an order that he would take over charge of the guard battalion.

A Yes.

Q In his capacity as Major, did he have any other duties to perform?

A Yes.

Q What?

A He had to see to it that the members of the families of SS members would receive quarters and he had to see to their welfare--those people who were evacuated from the East or interned there.

Q Please describe to the court what part these duties played in his life. Were they his main job or just something on the side?

A This job he had was a very expansive job and Berger was day and night on his toes.

Q From whom did Berger take his orders in his capacity as commandant of the guard battalion?

A The soldiers of the guard battalion outside the wire enclosure took their orders from Berger.

Q Were there SS people inside the wire enclosure?

A Yes.

Q Who?

A Blockleaders, roll call leader.

Q Did these SS people take their orders from Berger or not?

A No, they took their orders from the leader of the protective custody camp.

Q What did Berger have to do with the camp as such?

A Nothing.

Q What did he have to do with the prisoners?

A Nothing.

Q Did he have to make any signatures in the camp?

A No, I remember that in matters which concerned prisoners, Berger a number of times refused to make a signature and referred the matter to the adjutant.

Q Do you know what kind of documents they were?

A They were proceedings and other kinds of reports with regard to prisoners.

Q You said that Berger received orders on the 7th of January to take over command of the guard battalion. Now I ask whether Berger was there the whole time from the 7th of January until the evacuation.

A No, he was not always present.

Q When was he absent?

A Starting the middle of January for a period of about 5 or 6 weeks, he was ordered to duties in Northern Germany.

Q Do you know when he came back?

A Around the 15th to the 20th of February.

Q Was he away on any other occasions?

A Yes, he once had to have a jaw operation and he spent two weeks at home.

Q When was that?

A Beginning of March.

DR. MACKER: No more questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q What was the rank of the adjutant of the camp?

A First Lieutenant.

Q What was the rank of Berger?

A Major.

Q Was there any other line officer at Flossenburg who was superior to Berger in rank besides the commandant of the camp?

A Yes.

Q Who?

A The doctor, Dr. Fischer, Lt. Colonel of the SS.

Q Well, he is a doctor, is he not?

A Yes, but he had this official rank.

Q Yes, but he was not a line officer. Do you understand what is meant by a line officer?

A No.

Q How long have you been a soldier?

A Since 1939.

Q How long were you in the personnel section of Flossenburg?

A Since the 15th of August, 1944.

Q And you don't know what a line officer is?

A Yes, I know it.

Q What is it?

A It is an officer who has the power of command over troops.

Q A doctor does not have that, does he?

A I was asked whether I knew whether there was an officer there who had a higher rank than Major Berger.

Q The question to you again is: Was there any officer in Flossenburg who was a line officer, superior in rank to Berger besides the commandant?

PRESIDENT: Just a minute, the court would like to have the prosecution's original question in this regard reread.

(Whereupon the question was read by the reporter as follows: "Q Was there any other line officer at Flossenburg who was superior to Berger in rank besides the commandant of the camp?")

PRESIDENT: Proceed.

WITNESS SCHNADERBECK: No.

QUESTIONS BY PROSECUTION:

Q And is it not a fact that that was the reason why Berger was appointed the deputy to the commandant Koegel?

A I don't know that.

Q During the time that you were there and during the time that Berger was there, do you tell this court that Berger never at any time acted as the commanding officer of Flossenburg?

A I do not know of anything like that. That is more than I know.

Q Well, would you have known about it if it had taken place?

A Yes, certainly, at least if he had been for some time.

Q Did anybody else ever act as Koegel's deputy during the time that Berger was there other than Berger?

A Generally, the adjutant was the deputy of Koegel.

Q When did that take place?

A I don't know any specific dates but it was common knowledge that whenever Koegel was not there the adjutant would take over his duties.

Q You say common knowledge. That was handled by order, was it not?

A Yes, when he was away, he would turn over his duties officially.

Q Were the orders cut there in your office in the personnel section of Flossenburg?

A No.

Q Where were the orders cut?

A That was the top sergeant, yes, the top sergeant.

Q If such orders had been issued, you would have known about it would you not?

A Yes.

Q Tell the court whether or not you ever saw any orders designatin; the adjutant as the deputy to Koegel in Koegel's absence while Berger was present there at Flossenburg.

WITNESS SCHNADERBECK: Please repeat that.

(Whereupon the interpreter repeated the question.)

WITNESS SCHNADERBECK: No, I don't know.

QUESTIONS BY PROSECUTION:

Q Who told you to say that the adjutant was the deputy of Koegel?

A That was known. Anybody could say that.

Q But you never at any time saw an order making the adjutant the deputy of Koegel's in Koegel's absence while Berger was there?

A No.

Q You did see an order designating Berger as the deputy of Koegel's in Koegel's absence, did you not?

A Yes, that is the order from the 7th of January.

Q And Berger was the senior line officer present when Koegel was absent, is that not so?

DR. WACKER: I will have to object to this question because there has been no predicate laid that Koegel ever was away.

PROSECUTION: I would like to be heard on that, may it please the court.

PRESIDENT: Go ahead.

PROSECUTION: In other words, he would not have to be away. When you are considering the relative ranks of the people there on hypothesis of Koegel being away, then who is the senior officer present, it doesn't necessarily mean that Koegel would have to be away in order for that to be a proper question.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q Berger would be the senior line officer present if Koegel were absent, is that not so?

A Yes, in that case, yes.

Q This order that you received making Berger the deputy to Koegel was issued by Oranienburg, was it not?

A No.

Q Who issued it?

A The commandant.

Q It was approved by Oranienburg, was it not?

A I don't know anything about that.

Q Well, is it not a fact that a deputy had to be named

in a camp like Flossenburg?

A Well, the deputies, that is, the deputy was always the adjutant. If any time that the commandant was away and a matter came up, it would always be referred to the adjutant.

Q Did you keep the SS files?

A No, no SS records.

Q The records of the SS personnel in Flossenburg?

A Yes.

PROSECUTION: Reporter, will you mark this folder as Prosecution Exhibit No. 85 for identification?

(The document referred to was marked Prosecution Exhibit No. 85 for identification.)

QUESTIONS BY PROSECUTION:

Q I hand you a file which has been marked Prosecution Exhibit No. 85 for identification and ask you to examine it and state what it is, if you know.

A I did not take care of the records of officers.

Q I asked you to examine it and state what it is, if you know?

A I don't know, I never had that.

Q Look at it.

A I should look at it?

Q Yes.

A I don't know anything about that.

Q Have you ever seen anything like it before?

A No.

Q Have you ever seen any file similar to that before?

A I never saw any records of officers.

(Schnaderbeck-Cross)

PRESIDENT: The court will take a half-hour recess.

PROSECUTION: I would like to have the court instruct the witness that he is not to confer with anyone during this recess.

PRESIDENT: The witness is instructed that he will converse with no one during the course of this recess.

(Whereupon the court recessed at 1005 hours.)

(Whereupon the court reconvened at 1035 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Dr. Engelhorn who is absent on business of the accused; all the accused are present with the exception of Losch, Lipinski, Oswalt, Russfeldt and Kisbusch who are sick and Retzlaff and Bongarts who are in the bunker. The interests of those named accused who are absent are being taken care of by counsel.

The witness is reminded he is still under oath. Any spectators in the courtroom who expect to be called as witnesses in this case will please leave the courtroom.

PRESIDENT: Continuation of cross examination.

MICHAEL SCHNADERBECK, called as a witness for the defense, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Schnaderbeck, you say you know nothing concerning the officers' files in Flossenburg, is that correct?

A That is right.

Q You do know, do you not, that when Berger was named as deputy commander of Flossenburg that matter was sent to Oranienburg and thereafter it was approved there and notice of the approval signed by Gluck was sent to Flossenburg?

PRESIDENT: (to interpreter) Caution the witness whenever you hold up your hand he is not to answer.

(Whereupon the interpreter did as directed)

PRESIDENT: All right, Dr. Hacker.

DR. HACKER: I must object to that question because there has been no predicate laid that Gluck signed anything and there is no signature of Gluck at hand in these documents.

PROSECUTION: May it please the court, I have a perfect right to ask him the question whether or not he knows that that took place. Now he talks about laying a predicate. The way to lay a predicate is to ask questions concerning the matter. If he knows he is in a position to say he does; if he does not know, he is in a position to say he does not know.

DR. HACKER: I wouldn not have anything to object to against such a question but as I understand it we are assuming here that a certain Gluck already did sign a document and that it is a matter of fact.

PRESIDENT: The objection of the defense counsel, Dr. Hacker, is sustained.

QUESTIONS BY PROSECUTION:

Q You do know, do you not, that the appointment of Berger as deputy commander of Flossenburg was sent to Brandenburg and that that appointment as deputy commander was confirmed by Gluck and notice thereof sent to Flossenburg.

A I don't know anything about that.

Q You don't know anything about the affairs, the personal duties of officers at Flossenburg, do you?

A No.

Q Then explain to the court why it was you stated on direct examination that Berger had nothing to do with the camp and nothing to do with the prisoners?

A He was the commandant of the guard battalion.

Q That was the only basis you had for saying that he had nothing to do with the camp and nothing to do with the prisoners, is that correct?

(Schnaderbeck-cross)

A The Protective Custody camp was responsible for the camp.

DR. WACKER: I beg that also be translated - he didn't have anything to do with that.

PRESIDENT: What are you referring to, Doctor?

DR. WACKER: That which the witness said.

PRESIDENT: You mean it was not completely translated?

DR. WACKER: Yes.

PRESIDENT: Is there anything else, Interpreter?

INTERPRETER: No.

PRESIDENT: Are you satisfied, Dr. Wacker?

DR. WACKER: Yes.

PRESIDENT: Proceed.

QUESTIONS BY PROSECUTION:

Q What do you mean when you say Berger had nothing to do with the camp?

A Literally.

Q Well, explain it, please.

A He didn't have anything to do in the camp.

Q As a matter of fact that is just a conclusion of yours, is it not?

A That is a matter of fact.

Q What are the facts upon which you base that?

A That isn't any assumption of mine, that is a matter of fact. The leader of the Protective Custody Camp was responsible for the camp.

Q Well, what constitutes having to do with the camp?

A I don't know.

Q What constitutes having something to do with the prisoners?

A If he had access to the camp or had some function in which he had contact with prisoners.

What was his function there at Flossenburg?

A Who?

Q Berger.

A Starting with the 7th of January he was commander of the guard battalion.

Q And what did he do prior to the 7th of January?

A Nothing at all. He didn't have any duties.

Q Don't you know, as a matter of fact, he acted as deputy commander in November 1944?

A No.

Q And again in December 1944?

A No.

Q And on the 4th day of January 1945.

A I don't know about that.

Q You don't know about any of that, do you?

A No, I don't know anything.

Q When was Berger absent from Flossenburg?

A It was starting in the middle of January until around the 20th of February. He was ordered to go to North Germany.

Q Was that the only period of time he was absent from Flossenburg from the time he first reported there?

A He was also incapable of doing his duty for a period of time in connection with a jaw operation.

Q When was that?

A The beginning of March.

Q What day?

A Well, I Can't give you a date there.

(Schnaderbeck-cross)

Q Give me your best judgment as to how near the beginning.

A The beginning of the month.

Q How long did that last?

A About 14 days.

Q And all the other times except from the middle of January to the 26th of February and from the 1st of March to the 14th of March 1945, Berger was present for duty at Flossenburg?

A It is also possible that he was away for half a day or a day. I can't give you anything definite there.

Q Tell the court, Schnaderbeck, please, when it was Koegel was absent from the camp?

A According to my memory it was at the end of the year 1944 when he was away from the camp at the last time. He was making a trip to the outside camp.

Q When you say "end of 1944" do you mean the end of December 1944?

A It could have been November, it could have been December, I can't tell you for sure.

Q How long was he away on this tour?

A Eight days or fourteen days, I don't know anymore exactly.

Q When was he absent from the camp in the year 1945?

A He wasn't away from the camp for a lengthy period of time at all.

Q What do you call a lengthy period of time?

A For instance, if he would be away for eight days.

Q He was never absent from Flossenburg during the year 1945 for a period of eight successive days, is that correct?

A I can't remember that, no.

Q How is it, Schnaderbeck, that you are able to remember that Berger was absent from the middle of January 1945 to the 26th of February 1945 and then again from the beginning of March until about the 14th of March 1945 and you are not able to recall when Koegel was absent?

Q. Because Berger sat across from me at the desk or I sat across from Berger.

Q. You mean while you were in Flossenburg or while you were here in this courtroom?

A. In Flossenburg.

Q. When was it that the adjutant was absent from the camp in 1944, from September on?

A. I can't remember that the adjutant was absent.

Q. In other words the adjutant then was present in Flossenburg from September 1944 on through the end of the year, is that correct?

A. I wasn't in Flossenburg in September.

Q. When did you get there ?

A. At this time I was in Holleischen.

Q. Now tell the court, Schnaderbeck, when it was that you arrived in the main camp of Flossenburg.

A. 9th of June 1944 I arrived in the main camp of Flossenburg.

Q. Were you there during the month of October 1944?

A. I came back again from Holleischen in October.

Q. What part of the month of October did you arrive there?

A. It would probably be the beginning of October.

Q. So you were there then October, November and December 1944, is that correct?

A. Yes, starting with October.

Q. During October, November and December 1944 the adjutant was not absent from Flossenburg?

A. I can't remember that he was, I don't know anything about it.

Q. Do you remember whether or not he was absent at anytime during the year 1945, up until the time of the evacuation march?

A. No.

Q You consulted with Berger, did you not, as to the exact period of time that he was absent from Flossenburg?

A No.

Q Yet you know the exact date of Berger's departure from Flossenburg yet you don't know the date you came back to Flossenburg, from this outcamp, is that correct?

A I didn't give any exact date in regard to Berger. I gave an approximate date. I can't give you any exact dates.

Q Do you say that Berger never acted as camp commandant of Flossenburg or don't you remember whether he acted as camp commandant of Flossenburg?

A I can't remember that Berger was ever deputy of the camp commandant.

Q In other words he may have been, you don't recall it, is that correct?

A It is possible he may have taken over Koegel's duties for one day if Koegel was away but if that was the case I don't know anything about it.

Q What documents was it you said that Berger signed while he was there in Flossenburg?

A What documents?

Q Yes, what documents.

A Where is he supposed to have signed them?

Q Did he ever sign any documents there in Flossenburg as camp commander?

A He wasn't commandant.

Q Do you know of any documents he ever signed as camp commander?

A He was commander of the guard battalion.

Q Answer my question, please.

A He was not commandant of the camp, he was commandant of the guard battalion.

PROSECUTION: Will you repeat the question, please ma'am?

(Thereupon the reporter read the question as follows: " Do you know of any documents he ever signed as camp commander?")

A All I can say is he was not camp commander, he was commander of the guard battalion.

PRESIDENT: Just answer the question, yes or no.

THE WITNESS: I can't say anything else except to say he was commander of the guard battalion.

QUESTIONS BY PROSECUTION:

Q Do you understand the question that was asked?

A Certainly, yes, I understand it.

Then answer it, please.

A I already did answer it.

DR. ACKER: I ask that the question be asked the witness again.

(Whereupon the reporter read the last question as follows: "Do you know of any documents he ever signed as camp commander?")

THE WITNESS: No.

QUESTIONS BY PROSECUTION:

Q And only the camp commander could sign as camp commander, is that correct?

A Yes, of course.

PROSECUTION: No further questions

PRESIDENT: Dr. Acker.

REDIRECT EXAMINATION

QUESTIONS BY DR. ACKER:

Q Do you know whether there were any specific regulations in Flossenburg?

A Certainly there are.

Q In these camp regulations was there anything said about the deputy for the camp commandant? Was there anything definitely settled there?

A I am not acquainted with the camp regulations.

DR. ACKER: No more questions.

PRESIDENT: Recross.

PROSECUTION: Nothing further, sir.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COL. SKELVIG:

Q Schnaderbeck, when you were handed Prosecution Exhibit 83 and asked what it was, why did you state that you did not know anything about officers' files? How did you know it was such if you hadn't seen such types of files?

A He said they were the records of Berger.

Q How did you know they were the files when you hadn't even looked at it?

A Well, I don't know that. I never had anything to do with officers' records. The adjutant was the only one who administrated over the officers' records.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q Were you in personnel work prior to going to Flossenburg?

A Before I got to Flossenburg?

LT. COL. BURCHAM: Read the question to him, please.

(Thereupon the reporter read the last question.)

THE WITNESS: Yes.

Q Where?

A With the army.

Q What organization?

A Infantry.

Q What organization?

A 49th Machine Gun Co. Infantry Regiment.

(Schnaderbeck-cont)

Were you the senior non commissioned officer in that company?

No.

Who was?

What is company?

LT. COL. [illegible]: Shall I read him the question, please.

(Thereupon the reporter read the last question.)

WITNESS: There were a number of them, a number of non commissioned officers who were higher than I was.

But what job did you have?

I was first a gun leader and then a relieving platoon leader and then acting sergeant.

When you were a platoon leader and you went on leave, who took your duties?

The oldest gun leader.

Was it not the common rule also throughout the German army that the next senior would take over from the senior in the absence of the senior?

Yes, within the platoon.

How about in the company?

It all depends whether there is an officer there in the company and if there are two of them, or we hope if there wasn't, perhaps another would come from another company and take over.

Is it not written in your soldiers' handbook that the senior present will give a command?

But it often happened there was only one officer in the company.

MR. MAXWELL: That question did not include the term, "officer".

THE INTERPRETER: I know that, sir. I am just translating his answer.

PRESIDENT: You had better repeat the question.

(Whereupon the reporter read the last question as follows: "Were you the senior non commissioned officer in that company?")

THE WITNESS: Yes, but that had to be ordered also from the battalion.

LT. COL BURCHAM: No further questions.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

DEFENSE COUNSEL: Nothing.

PRESIDENT: Recross?

PROSECUTION: Nothing further.

PRESIDENT: The court understands the defense is finished with this particular witness. The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: Monska now appears for the accused, No. 3, Berger.

HANS MONSKA, recalled as a witness by the defense, having been previously duly sworn, resumed the stand and testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Monska, please tell us your full name.

A Hans Monska.

Q Are you the same witness who already testified here?

A Yes.

Q Did you give us your personal data at your former interrogation?

A Yes.

Q What was your official job in Flossenburg?

A I was top sergeant of the guard battalion.

Q Do you know a Major Berger?

A Yes.

Q Please point him out if you see him?

A Number 3.

Mr. MCGINN: May it please the court, let the record indicate the witness has identified No. 3 as Berger.

Q Do you know when Berger came to Flossenburg?

A It was the middle of December 1944.

Q What rank did Berger have at that time?

A He was major of the SS.

Q What duties did he have in Flossenburg?

A The beginning of January 1945 he took over the guard battalion.

Do you know what duties he had before the 7th of January 1945?

A That's unknown to me.

Q Do I understand you correctly? Did you just say the beginning of January 1945 he took over charge of the guard battalion?

A Yes.

Q What did the guard battalion consist of at that time?

A The guard battalion consisted of men from Yugoslavia, Croatia, Hungary, Rumanians, Russians, Poles, Ukrainians, air force, infantry, army, artillery, navy, and some SS people.

Q Please explain to the court how it happened that the guard battalion consisted of people of such various nationalities, various stations?

A All people who were capable of fighting at the front were sent to the front and we had to use these people in the emergency.

Were they SS people?

PROSECUTION: Just a minute, I object to counsel leading the witness.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q When Berger took over charge of the guard battalion, what duties did he have?

A The main job he had at the very beginning was to form a complete guard unit out of this helter skelter which was at his disposal when he took over.

Q Did he do that?

A Yes.

Q What was the duty of the guard battalion?

A The guard battalion had as its duties to accompany and guard the outside work details and the camp.

Q Did anybody try to escape? Was anybody shot to death during the time when Berger was commander of the battalion?

A No.

PROSECUTION: May it please the court, I ask that the witness be instructed to not answer the question until the question has been translated into English so counsel will have an opportunity to object to it if a proper objection should be made.

PRESIDENT: The court will accept the suggestion of the prosecutor and the court directs the interpreter to so indicate to the witness.

THE WITNESS: Yes, I understand.

QUESTIONS BY DR. WACKER:

Q Please tell the court what kind of a superior Berger was, generally speaking.

A As the way we say it in German, from head to foot Berger was a soldier. He was severe, just, and nevertheless popular among his soldiers.

Q What do you mean by the expression, "severe and just"?

A I mean to say when I say that he was severe and just that Berger didn't punish people for every small misdemeanor and he was ready at any time of day or night with an open ear to hear any personal problems of the men.

Q When you say that he didn't rush to punish people, do you mean to say by that that he didn't punish anyone at all?

PROSECUTION: I object to that as being leading and suggestive.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. McCRAY:

Q Were there incidents of punishment in the guard battalion?

A Yes.

Q What kind of punishments were involved there?

A For example, a number of guards were put in the bunker by Berger who were supposed to have taken watches and other objects from prisoners.

Q What kind of prisoners were involved there?

A This was a transport which arrived one evening at the railroad station in Flossenburg and among the people who accompanied them from the railroad station to the camp of Flossenburg was the dog leaders.

Q Do you know of any other cases where people were punished?

A I remember one case where a sergeant of the SS whose name was Weiss was locked up by Berger because, according to the statement of another guard and a prisoner, this guard was supposed to have shot a prisoner to death during the transport.

Q Do you know how cases of punishment of that kind were treated?

A As far as I know, the people were put into the bunker for safe-keeping and the matter was turned over to the court officer.

(Wonska-direct re-

When did Berger have to do with the case?

A. As far as I know, nothing.

Q. How long did Berger remain commander of the guard battalion?

A. He was on duty there about eight or nine weeks if you draw into consideration the fact that he was away because of illness and duty.

Q. When was Berger absent from Flossenburg?

A. He was absent in January for about three weeks and in March he underwent a jaw operation and that also used up about three weeks.

Q. When did Berger's job as commander of the guard battalion end?

A. The 15th of April.

Q. Why did it end then at this date?

A. I happened to be a witness when Berger and Koegel had an argument.

Q. Please describe to the court this argument between Berger and Koegel.

A. I was called to Koegel on the evening of the 15th and the following were present: Koegel, the adjutant, Berger, and a new sergeant of the SS, Albert, who had just arrived. No, he was a 2nd Lieutenant, not a sergeant.

Q. Please describe what you heard on that occasion.

A. I heard a heated argument and while listening to that I understood that a transport was supposed to leave next day. When I arrived the argument was already under way and I heard Koegel say to Berger, "Tomorrow morning you will immediately take over command of the transport and you, Lt. Albert, will take over command of the guard battalion immediately."

Q. Did Berger take over command of this transport?

A. At first he didn't want to do it but at the end he did it.

Q. Do you know anything else about this transport?

A. I can only say that in the morning of the 16th at 7 o'clock in the morning a Capt. Bebio and Berger came to me in the battalion clerk's office.

Q. What happened there?

A. I heard Berger tell Bebio to set aside a district the people from the re-

(Cont. -direct)

ri:ners should not be mistreated during the transport and no shot would be fired except in most extreme emergency and then he said, "Lead the people down, bring the people down to the railroad station in Floss.

Did the guard battalion provide guards for this purpose?

A No.

Why not?

A The people who were used for that purpose were people who had reported in the school in Floss. There were about 200 people who had been evacuated from other espe and they came with Bebio.

Were there enough people in order to provide guards for this column?

A Half of them would have been enough. They were all sent along together to Dachau and to be sent from here to the front.

Did the guard battalion in itself have anything to do with the guards of this transport then?

A No.

Did you have anything to do with the transport?

A Nothing at all.

From when to when were you 1st sergeant with the guard battalion, what period of time?

A From September '44 until the end, '45.

What do you mean, the end?

A Until the evacuation of the camp.

PRESIDENT: Cross examination.

RE CROSS EXAMINATION

QUESTIONS BY DR. GUTTMAN:

You stated that Berger enjoyed the reputation of being even such a soldier, is that correct?

A Yes.

You are sure about that?

A Completely.

(Continue re-cross)

'ri'ners should not be 'istreated ouri.' the trans ort and no shot would be fired except in most extreme emergency and then he said, "Lead the people down, bring the people down to the railroad station in Floss.

Did the guard battalion provide guards for this purpose?

A No.

. Why not?

A The people who were used for that purpose were people who had reported in the school in Floss. There were about 200 people who had been evacuated from other camps and they came with Dablo.

ere there enough people in order to provide guards for this column?

A Half of them would have been enough. They were all sent along together to Dachau and to be sent from here to the front.

Did the guard battalion in itself have anything to do with the guards of this transport then?

A No.

. Did you have anything to do with the transport?

A Nothing at all.

. From when to when were you 1st sergeant with the guard battalion, what period of time?

A From September '44 until the end, '4 .

. What do you mean, the end?

A Until the evacuation of the camp.

THE IDGE T: Cross examination.

RE CROSS EXAMINATION

I BY R. CUTTING:

You stated that Berger enjoyed the reputation of being ev r Irch e soldier, is that correct?

Yes.

You are sure about that?

Completely.

(re-
cross-cross)

Q Did you happen to know that on the 30th of November 1944 he was charged with maladministration of his command in that he permitted drunken debaucheries to take place, black market activities, improper conduct with women to take place in his command?

MR. HALL: Just a moment I have to object to that question. I believe the question read "that he was charged" with certain wrongdoing and it is completely an improper question for the purpose of impeaching the accused, Berger.

PRESIDENT: May we have the question?

(whereupon the reporter read the last question.)

PROSECUTION: I'd like to be heard on that, may it please the court. This is a matter of reputation that was brought into the case by the defense counsel. We are not offering this to show that he was convicted of anything, but this is offered to show what took place, may it please the court, with respect to rumor and reputation — that is, what people said about a particular individual.

PRESIDENT: Dr. Macker.

DR. MACKER: The Prosecutor has the record of Mr. Berger and he knows what is in it. I also know what is in it, and I believe that would be the best evidence, if we turn over the document and offer it to the court.

PROSECUTION: If it please the court, I have the right to try the case in the way I see proper and I do not intend to take any instructions from the Defense Counsel with reference to the preparation and presentation of my case.

DR. MACKER: I do not know how this question is regarded in the light of American law but this question which has been posed stands in contradiction to the record the Prosecutor has on his desk there.

PROSECUTION: May it please the court, I think that if counsel is trying a case in an American court he should learn what the American law

re-

(Monika-cross)

is. This is no time to plead ignorance of American law when he is appearing before an American court.

PRESIDENT: Is this matter available in the records of the case?

PROSECUTION: They have not been identified, may it please the court, by the man who is on the stand.

PRESIDENT: Are they available?

PROSECUTION: It all depends what your Honor means with respect to being available.

PRESIDENT: Is this record with reference to Berger mentioned in your question available in the records?

PROSECUTION: If the court wants to know about it, I have here a report that was made from Copenhagen.

PRESIDENT: Just a minute, answer my question — are they available?

PROSECUTION: Well, sir, what do you mean, available? If you mean physically here, yes, they are physically here, but the records have nothing at all to do with the question that was propounded to this witness, nothing in the world.

PRESIDENT: Court will be closed.

(Whereupon the court was closed at 1135 hours)

* * *

(Whereupon the court was opened at 1145 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel who were present before the court closed are now present.

PRESIDENT: The objection of the defense Counsel, Mr. Hall, is overruled. Proceed. We get the question.

(Whereupon the reporter read the last question as follows: "Did you happen to know that on the 20th of November 1944 he was charged with maladministration of his command in that he permitted drunken debaucheries to take place, black market activities, improper conduct with women to take place in his command?")

THE WITNESS: As I already mentioned, I didn't learn to know Mr. Berger until December and I didn't hear anything else, and during the time when I knew Berger he was actually a soldier from head to feet as we say in German.

QUESTIONS BY PROSECUTION:

Q In your opinion, is a man who permits that type of misconduct in his command every inch a soldier?

MR. MCKAY: Just a minute. That question is improper for the reason that there is nothing to show that such are the facts, and they may be based upon charges of which the man has been exonerated, and become argumentative.

PROSECUTION: I should like to be heard on that, may it please the court.

PRESIDENT: Proceed.

PROSECUTION: This man has stated what his opinion is. I have a right to propound every hypothetical question to him to ascertain the basis of his opinion in order to explain to the court what type of facts this man would have to have before him in order to determine whether his reputation is good or bad, and it is utterly ridiculous to assume that it must be shown first that such and such a state of facts existed in order to test the basis for his opinion.

PRESIDENT: Objection of the Defense Counsel, Mr. McKay, is overruled.

QUESTIONS BY PROSECUTION:

Q Will you answer the question, please.

A What should I answer to?

PRESIDENT: Repeat the question, reporter.

(Whereupon the reporter read the last question, as follows: "In your opinion is a man who permits that type of misconduct in his command every inch a soldier?")

(Wonska-cross) re-

PRESIDENT: The witness is cautioned that the Prosecutor has stated that this is a hypothetical question.

THE WITNESS: Yes. It is my opinion that every good soldier can now and then drink a little bit too much.

QUESTIONS BY PROSECUTION:

Q Will you answer my question, please?

A If he had allowed people to indulge in black market activities as was mentioned, then I wouldn't consider that completely like a soldier.

Q If he had permitted drunken debaucheries in his command would you consider him every inch a soldier?

A That's hard to answer.

Q You stated that no one escaped or tried to escape while Berger was the commanding officer of the guard battalion, is that correct?

A During that time, yes.

Q How many escaped or tried to escape immediately prior to the time that Berger took over command as commanding officer of the guard battalion?

A Before? You mean all those years?

Q Immediately prior.

A The last years nothing at all like that happened. I don't know of anything.

Q So that in 1944 then, no prisoner tried to escape and was shot or escaped from Flossenburg, is that correct?

A Not that I know of.

Q Would you have known about it if it had taken place?

A Yes.

Q No prisoner escaped or was shot while trying to escape during the year 1943, is that correct?

A '43? I can't remember that anymore exactly.

(Monika Gross)

Q What is your best judgment?

A Well, several cases did take place, attempts to escape.

Q And they were shot, is that correct?

A No, not that I know of.

Q But the last time that took place was in the year 1943, is that correct?

A Yes, that is my opinion.

Q You testified that Berger had nothing to do with the camp, is that correct?

A I never knew that he had anything to do with the camp.

Q Would you have known about it if he had had something to do with the camp?

A Definitely not.

PRESIDENT: Just a minute, Mr. Prosecutor. Are you referring to the Protective Custody Camp? I think that matter should be clarified. Read the question, please.

(Whereupon the reporter read the last question.)

QUESTIONS BY PROSECUTION:

Q I will ask you this question, when you testified that Berger had nothing to do with the camp, do you mean by that that he had nothing to do with the camp of Flossenburg?

A With the Protective Custody Camp in Flossenburg.

Q When you say the Protective Custody Camp of Flossenburg, do you mean by that the administration of the prisoners?

A Yes.

Q In other words, he had nothing to do that concerned itself with the administration of the prisoners, is that correct?

A Yes, that's right.

(Monska-recross)

Q Did you know that he was appointed the deputy commander of Flossenburg?

A Not that I know of. I don't know of anything like that.

PROSECUTION: May we have the same admonition to this witness about not speaking to anyone during the recess?

PRESIDENT: The witness is advised that during this intermission until 1:30 he will not discuss this case with anybody. Do you fully understand?

THE WITNESS: I am completely conscious of that.

PRESIDENT: Court will adjourn until 1:30 this afternoon.

(Whereupon the court adjourned at 1200 hours)

(Morsk--cross)

TA 651 Floss
12/4/46
IFH-1

Dachau, Germany
4 December 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1339 hours).

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Dr. Ingelhorn, who is absent on business of the accused; all the accused are present with the exception of Lipinski, Oswalt, Losch, Neye, who are ill, and Bongartz and Retzleff, who are in the bunker. The interests of those named accused who are absent are being taken care of by counsel.

The witness is reminded that he is still under oath.

HANS MONSKA, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

PROSECUTION: If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Continuation of cross examination, Colonel Denson.

RECROSS EXAMINATION (Cont'd)

QUESTIONS BY PROSECUTION:

Q Monska, before lunch, in response to a question: "Did you know that he was appointed deputy commander of Flossenburg", referring to Berger, you answered: "Not that I know of; I don't know of anything like that". Do you recall that?

A Yes.

Q Would you have known about it if Berger had been appointed deputy commander of Flossenburg?

A Yes.

Q If he had been appointed and acted as deputy commander of Flossenburg, would you say that Berger had something to do with the camp of Flossenburg?

A Yes.

DEFENSE COUNSEL: May it please the court, let the record show that the accused Mathoi has been taken out of the court room.

PRESIDENT: The record will so show.

CUTSTIONS BY THE PROSECUTION:

Q When was the first time that you saw Berger in Flossenburg?

A It was already the middle of December.

Q Do you know whether or not he was in Flossenburg prior to the middle of December 1944?

A No.

Q Was he in Flossenburg before the middle of December 1944?

A He was in Flossenburg starting with the middle of December, yes.

Q Then he was not in Flossenburg prior to the middle of December 1944, is that correct.

A No.

Q Then you would have known about it if he had been there, is that correct?

A Yes.

Q Did you ever hear of an order appointing Berger as deputy commander of the camp of Flossenburg?

A No never.

Q If there had been such an order, you would have known about it, would you not?

A Yes, definitely.

Q And you are just as certain of that as you are of the rest of your testimony, is that correct?

A Yes.

PROSECUTION: No further questions.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Monska, I likewise will now pose a hypothetical question to you: Let us assume that there is a soldier who is every inch a soldier as we have described, and an anonymous person raises some charge against this soldier and this charge is immediately dropped: Does that harm the reputation of this soldier at all?

A His reputation will not suffer because he has been denounced.

DR. WACKER: No more questions.

PRESIDENT: Off the record.

(Off the record discussion)

PRESIDENT: On the record.

MR. McKAY: Let the record show that Matzke has left the court room and Mathot came back.

RECROSS EXAMINATION

QUESTIONS BY COLONEL DENSON:

Q Well, would you say that his reputation would have been damaged, Monska, if the person who made the accusation was not anonymous?

A His reputation would then suffer if that correspond to the truth.

Q And if he had been reprimanded -- if this soldier had been reprimanded for his misconduct --

would you say that his reputation would be damaged?

A I beg that that be repeated.

COLONEL DENSON: Will you read it to him, please, Miss Reporter.

(Whereupon the question was read by the reporter).

THE WITNESS: Yes, if he had been reprimanded.

COLONEL DENSON: No further questions.

PRESIDENT: Questions by members of the court? Apparently not. Defense?

DR. BACKER: No more questions.

PRESIDENT: The court understands the defense has finished with this particular witness for the time being.

DR. BACKER: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew).

DR. BACKER: Klinkert now comes as a defense witness for Sommerfeld.

RICHARD KLINKERT, called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. BACKER:

Q Please tell the court your full name.

A Klinkert, Richard.

Q How old are you?

A 50 years old.

Q Are you married?

A Yes.

Q What is your profession?

A Tailor.

Q Where?

A In Kabsdorf.

Q Where are you presently located?

A Here in Dachau.

Q Are you under arrest by the American authorities?

A Yes.

PRESIDENT: The court advises you that if you should be asked any question which might tend to incriminate you, that you have a right to ask the court to refrain from answering that particular question. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed Doctor.

QUESTIONS BY DR. WACKER:

Q Were you ever in Flossenburg?

A No.

Q Were you in the area around Flossenburg?

A Yes.

Q Where?

A In Floss.

Q What were you doing in Floss?

A I was doing manoeuvers there.

Q When did you get there?

A End of February -- around the end of February.

COLONEL SKILVIG: What year was that? In what year?

THE WITNESS: 1945.

QUESTIONS BY DR. WACKER:

Q When you were in Floss what did you have to do with the concentration camp of Flossenburg?

A Nothing, really.

Q Did you take part on a transport of prisoners from the camp of Flossenburg?

A Yes.

Q When did that happen?

A That was on 16 April 1945.

Q How did it happen that you got in contact with this prisoner transport?

A On the 15th in the evening I came to the school in Flossenburg and then in the morning of the 16th I went to the railroad station.

Q Were you there as a guard? Were you assigned there as a guard?

A No.

Q Why did you go along nevertheless?

A Because all the other guards should go with this transport.

Q How many people are involved there?

A There were about 30 men who were superfluous.

Q Were you armed at that time?

A Yes.

Q What kind of a weapon did you have?

A A carbine and 20 rounds of ammunition.

PRESIDENT (to Interpreter): Just caution the witness not to answer until you have translated the questions of the defense counsel.

QUESTIONS BY DR. WACKER:

Q What did you see at the railroad station in Flossenburg?

A The prisoners had already been loaded. I climbed into a car where all these superfluous guards

were.

Q What kind of a car was that?

A That was a covered car.

Q Do you know who had charge of this column of prisoners?

A Major Berger, yes.

Q Do you know Berger?

A Yes.

Q Please point him out.

A Here (indicating), No. 3.

DR. SACKER: Let the record show that the witness has identified the accused Berger as No. 3.

QUESTION BY DR. SACKER:

Q Were there any other officers along?

A Yes.

Q Who?

A First Lieutenant of the SS Sommerfeld and Captain of the SS Behlow.

Q Do you recognize Sommerfeld if you saw him again?

A Yes.

DR. SACKER: Please wait until the question has been translated into English.

QUESTIONS BY DR. SACKER:

Q Please point out Sommerfeld if you see him.

A There (indicating), 47.

DR. SACKER: Let the record indicate that the witness has identified the accused Sommerfeld as No. 47.

QUESTIONS BY DR. SACKER:

Q When you got into the train with the prisoners where was Sommerfeld?

A Sommerfeld was in the same car into which I climbed.

Q And where was Captain Beblow?

A I don't know that.

Q Can you describe the external appearance of Beblow?

A Yes.

Q Please give us a brief description.

A He has an upright, strong build, about one meter 70 centimeters tall.

Q Where did the train go from Flossenburg?

A We went to Floss.

Q Were prisoners brought into your car and quartered there?

A No.

Q Before their departure did you hear any orders of any kind?

A No.

Q Why not?

A Because I didn't get there until later. The train was already loaded.

Q What happened in Floss?

A There was an air raid in Floss.

Q Did the train stop?

A Yes.

Q What did you do when the air raid was in progress?

A We jumped out of the car and looked for the best possible protection -- cover.

Q What did Sommerfeld do?

A I saw Sommerfeld jump out of the car also

and saw him turn off to the left in the direction of the building at the railroad station.

Q Did the prisoners leave the train?

A Yes.

Q What did the prisoners do?

A The prisoners sought the same cover that we sought. I was lying in the midst of prisoners.

Q Were people killed or wounded?

A Yes.

Q What happened to them?

A The wounded people were taken care of.

Q Did the SS shoot at the prisoners?

A No.

Q Where did the wounded people and the dead people lie?

A They were lying along the train about 15 to 20 meters.

Q What do you mean by this 15 to 20 meters? You mean they were lying along a stretch 15 to 20 meters long or 15 to 20 meters away from the train?

A They were about 20 meters distant from the cars.

Q Were any dead bodies lying in the immediate vicinity of the train?

A No.

Q Can you distinguish between a shot fired from a rifle and a shot fired from an air lane gun?

A Yes, definitely.

Q Did you hear any rifle shots during the air raid?

A No.

Q Would you have had to hear it if it had been fired?

A Yes.

Q If girl cousins had been shot by the SS would you have seen it?

A Yes.

Q What did you do after the air raid was over?

A We got into the train again after they had brought a new engine up.

Q What train did you climb into?

A I got into the same train.

Q Are you sure that that was the same train?

A Yes, certainly, because we had left our baggage behind in the cars.

Q Were there other trains standing there in the railroad station?

A No.

Q Wasn't there any possibility of getting into a different train?

A No.

Q Where did you go then?

A We went by way of Velden to Schwarzenfeld.

Q Did anything unusual take place during this trip from Floss to Velden and on to Schwarzenfeld?

A Yes. There was an air raid attack while we were under way.

Q Were people killed and wounded?

A No.

Q Did you get back into the same railroad car in which you had traveled from Flossenburg to Floss?

A Yes.

Q Were the same people in this car,- did they

continue to go with you, - the same people?

A Who had been in there before? Yes.

Q Did Sommerfeld also get back into the same car?

A Yes.

PROSECUTION: I ask that the witness again be cautioned not to reply until the answer has been translated into English.

PRESIDENT: The court sees fit to again caution the witness not to answer until the question of the defense counsel is translated into English. Proceed.

INTERPRETER: The answer was "yes" to that.

QUESTIONS BY DR. ACKER:

Q What happened after the train had arrived in Schwarzenfeld?

A Captain Deblon split up the guard.

Q Did you get out of the car?

A Yes.

Q What did Sommerfeld do?

A Well, at that moment he got out of the car also and went over to Deblon.

Q Did Sommerfeld give any kind of order immediately after the people had got out of the cars?

A No.

Q Were you in his immediate vicinity during this time?

A Yes.

Q Did you get out together or did you get out separately?

A Together.

Q If he had given an order immediately after the people got out of the cars, would you have had to have heard it?

A Yes.

Q Where did you go then?

A Since I was not assigned to the guard I was allowed to look for my own quarters in the village.

Q Did you hear what Keblow said to the guards when he was assigning the guards their posts?

PROSECUTION: I object to that question on the ground that it assumes Keblow had made a statement, and on the further ground that it is leading and suggestive.

PRESIDENT: Objection is sustained on the latter ground.

QUESTION BY MR. BACKER:

Q Where did Sonnenfeld go?

A He went into the village also.

Q Did anything happen during the time when you were in the village?

A Yes, a number of air attacks.

Q Where did you participate in these air raid attacks?

A In the village.

Q Do you know where the prisoners went?

A No.

Q Do you know what effect the air raid had on the prisoners?

A No.

Q What else happened in Schwarzenfeld in regard to your own person?

A I washed up, etc, then I lay down.

Q In afterward?

A Later on Sommerfeld commissioned me to get a vehicle and put it at the disposal of Major Berger.

Q Did you do that?

A Yes.

Q What happened then?

A Because of that, I got back to the railroad station rather late and reported to Sommerfeld. He was standing at the rails and picking out the prisoners who were able to continue the march.

Q What happened with you?

A Sommerfeld sent me to the First Sergeant of the SS Schmidt and he assigned me to the guard.

Q Did you receive any instructions -- any guard instructions?

A Yes.

Q Who gave them to you?

A Schmidt told me that he had to carry the full responsibility for this column and that it was his duty to bring them undamaged and all accounted for to their destination.

Q Did he say anything else?

A Yes. He told us that we should help him as much as possible and anyone who got sick or could not continue the march should be turned over to the authorities in the next village we came to and released there to the mayor.

Q Did he say anything else.

A Yes. At any rate, the sick people were not allowed to be shot to death.

Q Did he say how these sick people were to be

transported?

A Yes, on the two wagons which were brought along.

Q What kind of wagons were they?

A They were hand wagons with two wheels.

Q You spoke about a Schmitt: How much power of command did Schmitt have? By that I mean how many prisoners did Schmitt have charge of?

A About 150 to 180 men.

Q Was that his prisoners' column or wassthat the entire column?

A That was just one column.

Q All together, how many columns were there?

A Six.

Q What number columns did Schmitt have?

A Schmitt had the fifth column.

Q Did you see any dead prisoners in Schwarzenfeld?

A No.

Q Where did the column march then?

A We marched down the street for a distance of 10 kilometers in the direction of Fuhrn.

Q What day was that?

A That was on the 19th in the evening.

Q What month?

A April.

Q What did you do then around Fuhrn?

A We spent the night camped in a small forest between Kemnath and Fuhrn.

Q Did you see Bomscrfield again between the time when he first divided up the prisoners and the time when you camped near Fuhrn?

A No.

Q How long did you camp there?

A In the morning we had an air raid attack and because of that we decided to change our camp locations and so we marched on through Fuhrn and marched into a deep forest.

Q What day was that -- what morning was that?

A 20th of April.

Q What year?

A 1945.

Q When did you see Sommerfeld again?

A Where we pitched our new camp location behind Fuhrn.

Q What did Sommerfeld do there?

A He called a number of people up to him and had them go out and ask around about the neighborhood to see whether they could pick up food and potatoes.

Q How long did you stay there?

A We stayed there overnight and the next morning Sommerfeld drove off to Neunburg in order to pick up food.

Q How do you know that?

A Because I was together with him.

Q Did you go with Sommerfeld to Neunburg?

A No.

Q How do you know that Sommerfeld went to Neunburg to pick up food?

A Because he had talked to us.

Q What had he said to you?

A He said: "I am going to drive on ahead to Neunburg and see if I can get some food."

Q What day was that?

A That was on the 20th. No, that was on the 21st; it was on the next day.

Q When did you leave this new camp?location which you have described to us?

A You mean when we left our new camp location?

Q Yes.

A Sommerfeld commissioned me to take a bicycle to Neunburg to Major Berger.

Q Did that happen?

A Yes.

Q Did you meet Berger in Neunburg?

A Yes. I met Berger and then I was supposed to find out where the food was and wait for Sommerfeld there.

Q Did you do that?

A Yes.

Q Did you wait for Sommerfeld?

A Yes.

Q Did Sommerfeld come?

A Sommerfeld came around 7 o'clock and a short while afterward, between 20 and 30 minutes, a column arrived.

Q Do you mean 7 o'clock in the morning or 7 o'clock in the evening?

A 7 o'clock in the evening.

Q What day was that?

A That was the 21st of April.

Q And what did you and Sommerfeld then do in Neunburg?

A Sommerfeld stayed standing there on the side of the street and sent me into the place where the food was kept.

Q Where was the food kept?

A That was quite a bit off to the right side of Neuburg.

Q Who came into this place where the food was kept?

A Only SS people. That is where I was: only SS.

Q Where did the prisoners stay?

A They were given food somewhere else.

Q Did you see that?

A No.

Q Then how come that you know it?

A I heard that from the other people that the prisoners had already been fed.

Q Did you see Captain Deblow in Neuburg?

A Yes.

Q When did you see him?

A When I brought the bicycle in the course of the afternoon I saw Deblow and a number of guards with him.

Q Did you see any prisoners whom Deblow had charge of?

A No.

Q How long did you stay in Neuburg?

A About two hours.

Q What happened then?

A We continued marching further in the direction of Stamsried.

Q What time was the departure?

A Around 9 o'clock in the evening.

Q Is Stamsried in the area near Neuburg?

A No.

Q When did you come to Nuenburg?

A We never did get to Nuenburg.

Q When did you reach this so-called Stamsried?

A I marched ahead of the column and then I was assigned to go ahead on the bicycle again.

Q Who assigned you to do that.

A First Lieutenant Sommerfeld.

Q And what did you do?

A I went ahead with a first sergeant in order to mark the route.

Q When did you get to Stamsried?

A It could have been around 1 o'clock in the night.

Q When did the prisoners' column reach Stamsried?

A I didn't see that, but the way I heard it was that they came around 4 o'clock in the morning.

Q What day was that? What morning?

A It was the 22nd of April.

Q And when did Sommerfeld come to Stamsried?

A Sommerfeld was already in Stamsried ahead of us; he had said that he was going on ahead and look for quarters because it was getting dark and it was raining that night.

Q Do you know when Sommerfeld got to Stamsried?

A No.

Q When did you meet Sommerfeld again?

A On the morning of the 22nd of April.

Q Where?

A I saw him there near a bakery -- in a bakery shop in the market place.

Q Where were the prisoners?

A I don't know that but Sommerfeld told us that the prisoners had arrived in two columns around 4 o'clock and that they had been quartered in four barns.

Q What did you do in Stamsried on 27 April 1945?

A We dried our clothes up there in the bakery shop and then in the course of the morning we went over to a cobbler's shop and had our quarters there.

Q Whom do you mean when you say "We went over there, both of us"?

A I didn't mean to say "both of us"; I was there; Sommerfeld was there and three other men; all five of us were there in the Bakery shop.

Q Describe to us now what happened; what else happened on this 2nd of April.

A We sat in a small room there in the cobbler shop, Sommerfeld and I, and we were talking about the two columns or rather, about the 4 columns, really, except that one of them went astray and we didn't know where it went and the other one never reached Stamsried. We were talking about these columns. A little later messengers came from these columns and said they had lost their way and that they were quartered in barns a little before Stamsried.

Q Did these messengers arrive together or not?

A. No; they came separately, one after the other.

Q. Did each column send a messenger?

A. Yes.

Q. Did you hear what these messengers said to Sommerfeld?

A. No; they brought a written report.

Q. Did you see this written report?

A. Yes.

Q. Did you read it?

A. Yes.

Q. Tell us what it contained.

A. Sommerfeld took me the reports and said: "Look; the reports just arrived" and in this report it was said that they had reached Stamsried because they had lost their way and for that reason they had sought quarters in barns and nothing unusual has occurred.

Q. What did you do in Stamsried on the 22nd of April?

A. Sommerfeld told me to drive to Roding to Major Berger, who was supposed to be there, and hand this report over to him.

Q. Did you drive to Roding?

A. Yes.

Q. Did you meet Berger?

A. No.

Q. What did you do then?

A. I waited about two hours to see whether Berger could have up and then I drove back.

Q. Where did you go back to?

(Adjournment - 1 hour)

A I went back to Stamarie.

Q Did you meet Sommerfeld there again?

A Yes.

Q What time was that when you got back?

A Around 8 o'clock in the evening.

Q What happened then?

A I had my free time; then I could return.

Q What did you do the next day?

A The departure was ordered for 9 o'clock the next morning.

Q What date is that?

A That was the 23rd of April.

Q Where were you supposed to go?

A We were marching in the direction of Dachau.

Q How long did you march?

A You mean on the 23rd?

Q Yes.

A I was commissioned to stand at the market place and show the route to the columns which were following.

Q Did you do that?

A Yes. Two columns have already marched past and the other column, which was behind Stamarie, was to be told what route they were to take.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court was seen in place).

PRESIDENT: The court is come to order.

DIRECT EXAMINATION

QUESTION BY MR. ACKER:

Q What happened when you were supposed to show the column what route to take in Stamarie?

A After I showed the first two columns the route, they had already passed me; I told a private who happened to be there: "Stand there and show the following column the route" and then I got on my bicycle and went after the two preceding columns.

Q Where was Sommerfeld at this time?

A Sommerfeld was at the first column.

Q What happened then?

A After I had passed the column I heard the rumbling of tanks in the village and I quickened my pace and from that time onward I didn't see the column or the prisoners any more.

Q Did you hear any order from Sommerfeld according to which prisoners who were incapable of continuing the march should be shot to death?

MR. BERKOWITZ: I object to the question as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. SACKER:

Q Did you hear any kind of orders from Sommerfeld?

A No.

Q Did Sommerfeld give any kind of orders when you saw him counting off the prisoners in the railroad station at Schwarzenfeld?

A No.

Q What kind of weather was it when the prisoners marched through Nuenburg?

A It had rained.

Q How was visibility?

A It was dark.

Q How far could you see?

A 50, 60 meters.

Q Did you see any dead bodies of prisoners who had been shot to death?

A No.

Q Did you hear any shots fired?

A No.

Q Do you know a prisoner with the name Szlamkiewicz?

A No.

Q Were you there when prisoners came toward Nuenburg?

A We never did get to Neunburg.

Q When did you see Sommerfeld the last time?

A In Stamsried on the 23rd of April.

Q Do you know whether Sommerfeld was in Nuerenberg between the 16th to 23rd of April 1945?

MR. BERKOWITZ: May it please the court, there is no basis for that question in the record; nothing to indicate that he was in Nuerenberg. The record refers to Neunburg; the witness has testified about Neunburg. There is nothing in the record about Nuerenberg. The question is irrelevant and misleading.

DR. WACKER: The reason I am asking about Nuerenberg is because the witness Szlamkiewicz has made various statements and maintained that the column reached Nuerenberg. I am referring to the pages of the record 1898-99.

MR. BERKOWITZ: May it please the court, I do not have the record in front of me but the testimony I have had recorded in my notes, and the court will recall it, was Neunburg and all the testimony concerns Neunburg, - the town between Schwarzenfeld

and Stemarico. If the record states Nuerenberg, that is patently an error in the record.

DR. SICHEL: At that time when I wanted to correct an error in the record on the part of Professor, there people had talked about Tubingen and Erlangen, I was told that the record was final, and no. I am referring to that and maintaining that it should be Nuerenberg in the record, and that is what they are talking about.

MR. SIEKOWITZ: May I answer that?

PRESIDENT: All right.

MR. SIEKOWITZ: The two cases are not analogous. In one case the reference is to a medical school without any specific place mentioned; here there is evidently a typographical error if the record was say Nuerenberg. The cases are not analogous at all.

PRESIDENT: What city are you referring to, Doctor?

MR. SICKER: I am referring to the fact that the word "Nuerenberg" is in the record.

PRESIDENT: Objection overruled. Mr. Secker, do you have a copy of the record there or are you reading from an excerpt of the record?

MR. SICKER: I am reading from a copy of the record but I have already ascertained that this copy is correct. Mr. Sickel is going to check it and bring the record in. Therefore, I would like to ask for a short recess.

PRESIDENT: The court will take a short recess.

Tu 651 Floss
1-/1/46
FFH 25

(Whereupon at 1445 hours the court recessed)

(Discussion off the record)

PRESIDENT: The court will be closed.

(Whereupon at 1450 hours the court was closed).

Camp Dachau, Germany
December 4, 1946

(Whereupon the court was opened at 1535 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If it please the court, may the record show that all the personnel of the court are present; all the members of the prosecution are present, with the exception of Colonel Jensen and Mr. Pinter, who are absent on business of the prosecution; all of the members of the defense are present; and all of the accused are present with the exception of Lasch, Lipinski, Oswalt, who are sick, and Metzlaff and Bengartz, who are in the bunker. The interests of those named accused who are absent are being taken care of by counsel. Dr. Schmitz is also absent and is conferring with counsel and his interests are likewise being taken care of by counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom.

PRESIDENT: The previous testimony referred to Neunburg. The correct spelling of Neunburg is N-e-u-n-b-u-r-g, and not Nurenberg. As a result of the information in the hands of the court at the present time, the previous objection on the part of the prosecutor is sustained. You may proceed, doctor.

RICHARD KLINKERT, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter, as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY DR. SACKER:

Q. Mr. Klinkert, I am referring now to the time when Sommerfeld counted the prisoners in the column at Schwarzenfeld. How far were the prisoners from the train?

A 100 to 150 meters.

Q How were they counted?

A Sommerfeld was standing near the tracks and had them fall in in columns of fives, then checked them to see if they were capable of marching.

Q What happened to those who were capable of going on the march?

A He sent them to the column.

Q What did the column do?

A When it was complete, it left.

Q And how long did Sommerfeld continue to count?

A When they marched away he hadn't finished yet.

Q What was the distance of the column which was ready for marching from the spot where Sommerfeld counted the prisoners?

A As mentioned, 100 to 150 meters.

Q Did Sommerfeld in us any orders at that time?

A No.

MR. MACHER: No further questions.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY MR. SERGOVITZ:

Q Did you ever hear of Sommerfeld issuing any orders at all?

A No.

Q Did you hear any orders at Floss?

A No.

Q Did you not hear any orders at Meiden?

A No.

Q Did you not hear any orders at Schwarzenfeld?

A I was not present when orders were issued so I couldn't hear anything.

Q Well, were orders issued?

A Yes.

Q Who issued them?

A Major Berger, in Schwarzenfeld.

Q What were those orders?

A There was the order that was repeated to me by Sergeant Schmidt.

Q Are those the orders you testified to on direct examination, that no foot weary prisoners would be shot?

A Yes.

Q What were the words that Sergeant Schmidt used in telling you about those orders?

A Schmidt told me that he had the full responsibility for the column and that he was responsible that the column would reach its destination. He also said that if anyone should be sick or not capable of marching any further that they should be put in the wagon that was taken along and were to be handed over to the authorities in the next village.

Q Well, did he say that they were not to be shot?

A Yes.

Q What were the words that he used when he said that?

A He said:

> "They are not to be shot to death but to be taken along to the next village."

Q Did he not tell you why that order was given?

A No.

Q Did you not know why it was given?

A No.

Q Did you not know that the prisoners had been shot at Flossenbürg?

A No.

Q Did you see Sommerfeld at Flossenbürg?

A Yes.

Q Did you see Sommerfeld shoot prisoners in Flossenbürg?

A No.

Q Did you not know that prisoners were shot at Schwarzenfeld?

A No.

Q Did you not hear Sommerfeld give orders that prisoners were not to leave the cars at Schwarzenfeld in case there should be an attack?

A No.

Q When you arrived at Schwarzenfeld, what did the SS do?

A We got out and Beble distributed the guards.

Q Were the guards lined up before they were detailed?

A Yes, they got together, then they were detailed, and the others took off.

Q Were you lined up with the rest of them?

A No.

Q Where were you?

A I was near there.

Q Where was Sommerfeld?

A Sommerfeld was with the guards.

Q Did you hear what Sommerfeld told the guards on that occasion?

A No.

Q Were the guards that were posted given any instructions?

A I don't know that.

Q You were right in the neighborhood, you said?

A No, in the village.

Q You were in the village when the guards were set in their positions to guard the prisoners?

A Yes.

Q When did you go to the village?

A Shortly after the train had arrived.

Q How soon after the train arrived did guards get out of the cars?

A Immediately after the ride, after the arrival.

Q Immediately after their arrival they were detailed to form guard duty, were they not?

A Yes.

Q And so you were still there when they were detailed for guard duty, were you not?

A Yes.

Q Sommerfeld was there with the guards too?

A Yes.

Q Now, if you were there, did you hear what instructions were given to the guards?

A No.

Q Did you have any difficulty distinguishing between Sommerfeld and Beble?

A No.

Q What were the distinguishing features?

A Beble was taller.

Q Beble had a mustache too, did he not?

A Yes.

Q And Semmerfeld did not, did he?

A No.

Q Now, from the time you left Flessenburg until the time you left Stamsried, did you ever see any dead prisoners?

A No, except the ones that were caused by the air raid.

Q Where we e you when the air raid took place?

A In Fless, just across from my car on a bank.

Q Did you not see the bodies of the prisoners who were shot after the air raid?

A No one was shot.

Q Where were you?

A I was not far from my car.

Q What car were you in, in relation to the engine?

A The tenth or twelfth car.

Q How many cars were there in the train?

A I don't know exactly.

Q Well, were you in the last car or were you in the middle of the train?

A From the middle towards the beginning.

Q The twelfth car was in the middle towards the beginning, is that correct?

A Yes.

Q Were there more than 24 cars in the train?

A Yes, definitely.

Q What kind of cars were they—passenger cars or freight cars?

A Covered freight cars.

Q Do you know how many prisoners were put in a car?

A No.

Q Do you know how many guards were put in a car?

A Two, and also three.

Q How many times were you sent after bicycles during the course of this transport?

A Never.

Q Did you not state that you were sent for bicycles, that there were about three occasions on which you were sent for bicycles by Sommerfeld; is that correct or not?

A No.

Q You did not testify on direct examination that you were to get a bicycle for Berger?

A No, I only said that I brought the bicycle for Berger.

Q How many times did you do that?

A Once.

Q From where to where?

A From the second camping place to Neunburg.

Q Where was the second camping place?

A Behind Fuhrn.

Q Was Sommerfeld armed?

A Yes.

Q What kind of arms did he carry?

A Pistol.

Q Where were you at the time of the air attack at Schwarzenfeld?

A In the village.

Q Do you know if Schmidt's column came to Dachau?

A No, the morning after having been in the first camping place I was taken away. I was taken away and sent to Sommerfeld.

Q Who sent you to Sommerfeld?

A Sommerfeld himself gave orders.

Q Now, who was in charge of the entire transport from the time you left Flossenburg until the last you saw of it?

A Major Berger.

MR. BERKOWITZ: That is all.

PRESIDENT: Redirect?

DR. WACKER: No further questions.

MR. HALL: Redirect, if the court please, on behalf of the accused Graeber.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Where is Sergeant Schmidt today?

Q What were you doing there?

A I had time off and I took a rest.

Q Who was with you?

A A sergeant and a technical sergeant.

Q What were their names?

A Sergeant Aichlin and Technical Sergeant Rechstein.

Q Do you know the defendant Gruber?

A No.

Q Were you in the column that was led by Sergeant Schmidt?

A Yes.

Q Look over the dock and see if you recognize anybody else who was in that column?

A No.

A I don't know.

MR. HILL: That is all, sir.

PRESIDENT: Questions by any members of the court? Major Lanham.

EXAMINATION BY THE COURT

QUESTIONS BY MAJ LANHAM:

Q Just while you were in Sommerfeld, Sommerfeld gave orders to shoot prisoners who were unable to march on, who were sick; do you know anything about that?

A They were not to be shot.

Q Are you sure the orders were that they were not to be shot?

A Yes, I didn't hear about it from Sommerfeld, but from Sergeant Schmidt.

Q Somebody also testified on behalf of the prosecution that Sommerfeld himself shot two Polish prisoners just on the march, do you know anything about that?

A No.

Q No what? He did not shoot them, or you do not know?

A I was with Sommerfeld most of the time; I certainly would have seen something.

Q Did you hear anything about him shooting anybody on the march?

A No.

Q Well, if he had shot a couple of people on the march, do you think you would have heard about it?

A Yes.

LAW MEMBER: That is all.

PRESIDENT: Any further questions by the members of the court? Colonel Burcham.

QUESTIONS BY LT. COLONEL BURCHAM:

Q Is it a custom to shoot sick on the march?

(Klinkert - Court)

A No.

Q Can you explain why it should even be mentioned on an order for a march?

A No.

LT. COLONEL BURCHAM: No other questions.

PRESIDENT: Any further questions by the members of the court? Apparently not. Redirect?

DR. WACKER: No further questions.

PRESIDENT: The court understands the defense is finished with this witness....

MR. BERKOWITZ: If it please the court, I have one more question:

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Have you been advised by the defense counsel that there is a possibility of your being named as a defendant in the second Flossenburg trial?

A No.

MR. BERKOWITZ: That is all.

PRESIDENT: Does the defense have anything further?

DR. WACKER: No.

PRESIDENT: The court understands that the defense is finished with this particular witness.

DR. WACKER: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. O'CONNOR: I hand the reporter this document and request that it be marked Defense Exhibit #61-A for identification.

PRESIDENT: Is there any objection by the prosecution?

MR. BERKOWITZ: No objection.

(The document referred to was marked Defense Exhibit #61-A for identification.)

MR. O'CONNOR: The defense offers in evidence this document, marked Defense Exhibit 61-A for identification, being a true and correct English translation of Defense Exhibit #61.

PRESIDENT: Subject to objection by any member of the court, the court will receive in evidence Defense Exhibit 61-A and give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit #61-A for identification, being an English translation of D-61 Copy of Order reporting Fritz Multhaupt to Flossenburg, was then received in evidence as Defense Exhibit 61-A, is attached hereto, and made a part of the record.)

PRESIDENT: Dr. Hacker?

DR. HACKER: I call Otto Freese as the next witness on behalf of the accused Sommerfeld, No. 47.

PRESIDENT: All right, proceed, doctor.

OTTO FREESE, recalled as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified through an interpreter, as follows:

REDIRECT EXAMINATION

QUESTIONS BY DR. HACKER:

Q Are you the same Freese who has testified here before as a witness?

A Yes.

Q Did you ever participate in a transport of prisoners from Flossenburg?

A Yes.

Q Were you a guard?

A Only in Schwarzenfeld.

Q In what capacity did you accompany the column to Schwarzenfeld?

A I traveled along with several comrades in a car.

Q What happened when you arrived in Schwarzenfeld?

A There was an air attack.

Q Where was this air raid?

A In Floss.

Q I am talking about the air raid in Schwarzenfeld.

A When the train was arriving we had an air raid.

Q How long after the arrival of the train in Schwarzenfeld did the air raid take place?

A It could have been one hour after the arrival.

Q What was done immediately after the arrival of the train in Schwarzenfeld?

A I had left the train because I had not been detailed to be a guard, so I went to a house and had breakfast.

Q Did the air raid take place while you were there?

A While I was in the house the air raid took place.

Q You say that you had not been detailed in Schwarzenfeld?

A Yes.

Q How did that happen?

A Schmidt had charge of the marching column; he didn't have enough men so I joined him.

Q Did you get any orders or instructions when you were detailed to be a guard?

A I had received them before.

Q Where?

A In Schwarzenfeld.

Q I mean, where in Schwarzenfeld?

A Near the station.

Q From whom?

A From Sommerfeld.

Q Would you recognize Sommerfeld if you would see him today?

A Yes.

Q Please point him out.

A At the second window to the left, No. 47.

MR. MACHER: The witness has identified No. 47 as the accused Sommerfeld.

Q What did you hear from Sommerfeld in Schwarzenfeld at that time?

A While we were allowed to--in former times--to shoot prisoners trying to escape, Sommerfeld told us in Schwarzenfeld that we were not allowed to shoot any prisoners. Of course, I can't give the orders now. I can't repeat the order any more word for word. All prisoners were to be taken to Dachau unharmed.

Q Was anything said about sick prisoners?

A Those prisoners who fell ill during the march would be taken to the next village by car and handed over to the Burgermeister there against the receipt.

Q Did you have any such cars at your disposal?

A Yes, we had taken two cars along from the station.

Q Did you hear that order from Sommerfeld immediately after the train had arrived?

A No.

Q Did you see Sommerfeld at that time?

A Yes.

Q You would have had to hear such an order?

A Yes, I had to hear it.

Q When did you leave Schwarzenfeld?

A The 19th of April 1945, 1900 hours.

Q Where did you march to?

A In the direction of Fuhrn.

Q Did your column reach Stamsried?

A No.

MR. BERKOWITZ: May the witness be instructed not to answer until the question is interpreted.

PRESIDENT: The interpreter is so instructed to caution the witness.

QUESTIONS BY DR. WACKER:

Q Do you know if other columns which have left Schwarzenfeld at that time reached Stamsried?

A No.

Q What happened to the column you were with?

MR. BERKOWITZ: That is objected to as repetitious. It all has been testified to by this same witness before.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q Did you see any prisoners who had been shot to death?

A No.

Q Does that mean the column had not left Floss until it was deactivated, or that you left the column?

A I only went along to Roding with this column.

Did you see any dead prisoners between Floss and Roding?

A At the station in Schwarzenfeld.

Q What kind of dead were those?

A They had been killed by the air raid.

Q Did the SS escorting the train at any time shoot any prisoners?

MR. BERKOWITZ: I object to that as a leading question and move that the answer be stricken.

PRESIDENT: Was the question answered?

INTERPRETER: The answer did not come out. I didn't hear the answer.

MR. BERKOWITZ: I withdraw my motion and renew my objection.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q Did you see Sommerfeld at Schwarzenfeld outside of his issuing the orders you were talking about?

A No.

Q Did you ever see Sommerfeld again after leaving Schwarzenfeld?

A Yes, in the woods near Fuhrn.

Q What did Sommerfeld do at that time?

A He reprimanded Schmidt for having started fires.

Q Did you hear the conversation that Schmidt and Sommerfeld had?

MR. [illegible]: If the court please, I object to this as repetition.

DR. WACKER: I withdraw the question. No further questions.

PRESIDENT: Cross examination?

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q You saw all the dead prisoners at Schwarzenfeld, did you?

A Yes.

Q Where were you at the time of the air attack?

A I was in the house approximately 300 to 400 meters distant from the railroad station.

Where were the prisoners at the time of the air attack?

A They had gotten off the train to take cover.

Q Where were the SS at the time of the air attack?

A They also had left the train.

Q Do you know what happened to the prisoners who got out of the train and tried to receive cover?

A Nothing happened to them.

Q Did you not receive instructions that no prisoners were to get out of the train in case of air attack?

A No.

Q Where were the prisoners who were killed during the air attack?

A I was not near the train; I was in a house nearby.

Will you answer my question, please?

A They had gotten off the train.

Q What happened to the prisoners who were on the train?

A I was not nearby; I watched through the window the things that were going on.

Q Now, is it not a fact, Mr. Frosse, that the prisoners who were killed in the air attack were those prisoners who were killed in the train?

A I can't state exactly because I wasn't present.

Q Is it not a fact that those prisoners who got out of the train were shot by the SS guards?

(Frosse - Recess)

A No, I did not see that.

Q You did not see that? Were you too far away?

A I was about 300 to 400 meters distant from the train.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

DR. WACKER: No further questions.

PRESIDENT: Questions by the court? Apparently not. The court understands that the defense is finished with this witness.

DR. WACKER: Yes.

PRESIDENT: The witness will be excused. The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

DR. WACKER: The defense calls as its next witness, Hermann Dahlke, on behalf of the accused No. 3 and No. 47.

HERMANN DAHLKE, called as a witness for the defense, being first duly sworn, testified through an interpreter, as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Please state your full name?

A Hermann Dahlke, D-a-h-l-k-e.

Q How old are you?

A 37 years old.

Q Are you married?

A No.

Q What is your profession?

A Tailor.

Q Where do you live?

A In Hausercoerfl, Bad Toalz.

Q Mr. Dahlke, were you ever in Flossenburg?

A Yes.

Q From when to when?

A January 1939 until April 1945.

Q As what were you in Flossenburg?

A As preventive prisoner.

Q Where did you work in Flossenburg?

A I worked in the SS tailor shop as tailor.

Q Did you know a Major Berger?

A Yes.

Q Please point him out if you recognize him here?

A The first row right here (Indicating).

DR. WACKER: The witness has identified No. 3 as being the accused Berger.

Q Do you know when Berger arrived in Flossenburg?

I got acquainted with him at the beginning of 1945.

Q What did you have to do with Berger in Flossenburg?

A I made a uniform overcoat for him; that is when I got acquainted with him.

Q Were you in a column of prisoners which left Flossenburg?

A Yes.

Q When was that?

A April 16th.

Q Please tell the court how you participated in this transport?

A The 15th of April Berger ordered me and another prisoner by the name of Oblak to his house.

Q Please tell the court what happened on April 15, 1945 when you called on Berger?

A I went to the home and Berger was present with his wife, his children, his inlaws and a certain Miss Nordmann. Major Berger gave us a glass of wine and he asked us whether we would be willing to go with him and to watch out for his family and his children -- to protect his children on the way during the transport in case of any air raids, and we agreed. The following day, the morning of the 16th of April, we went to the station with Berger and the children.

Q What did you see at the station?

A There was a train at the station into which prisoners had been loaded to be transported into Dachau. We also got into a car.

Q What do you mean by "we"?

A Mr. Berger, his wife, his children, Miss Nordmann, Cblak, two other women whom I don't know, and I myself.

Q What kind of car was that?

A It was a closed freight car.

Q Where did you drive?

A We traveled to Floss, and the first air raid took place there.

Q Did the train stop in Floss?

A Yes, the train stopped in Floss.

Q What was done in Floss?

A Everybody tried to seek cover. I went to the railroad station where I saw Berger with his children.

Q Who else was present in the station?

A I can't say exactly.

Q Do you know a First Lieutenant Sommerfeld?

A Yes.

Q Would you recognize him if you would see him today?

A Yes.

Q Please point him out?

A In the upper row (indicating).

MR. WACKER: Witness has identified No. 47 as being the accused Sommerfeld.

Q Did you see Sommerfeld in Flossenbürg?

A No, I did not see him.

Q What happened in Flossenbürg?

A After the raid we left the station. There were a lot of wounded and dead because of the air raid. I heard Berger say that the wounded would have to be bandaged and then he made a call to Flossenburg for medical men to take care of that job.

Q Was that order carried out by Berger?

A Yes.

Q Was Berger's order carried out?

A I myself saw medical men come from Flossenburg and bandage the wounded.

Q Can you distinguish between the shot of a rifle and a shot being fired from a cannon aboard a plane?

A That was the first time I had ever been in an air raid. I was so confused that I could actually not distinguish any shots.

Q Did you see or hear the SS shoot in Flossenbürg?

A No.

Q What happened after the raid was over, after what you have told us?

Everybody got back into the train and we continued to Schwarzenfeld.

Q You said everybody got back on the train. What train?

A The same train.

Q Are you sure it was the same train?

A I'm absolutely certain. I forgot something. Berger also gave orders that the cars should be covered with prisoners' clothes so that the attacks would decrease.

Q Did anything unusual happen on this ride to Schwarzenfeld?

A I didn't see anything. I only heard that prisoners had escaped on the way.

Q Did you hear or see the SS shoot during this trip?

A No.

Q Did you hear any order which concerned itself with shooting?

A Yes, in Floss, after the air raid, I heard that Berger said that he didn't want anyone to shoot at prisoners.

Q Did you hear that at any other time?

A I heard it later on again.

Q Do you know where that was?

A I can't say exactly.

Q What happened when you arrived in Schwarzenfeld?

A We arrived early in the morning in Schwarzenfeld;right after that another air raid took place.

Q Again referring to the trip between Floss and Schwarzenfeld, where did you take part in it?

A The air raid in Schwarzenfeld?

Q No, I am referring to the train between Pless and Schwarzenfeld.

A In the same train.

Q In what car?

A In the same car.

Q Who else was in your car between Pless and Schwarzenfeld?

A The same persons who had been in there before: Major Berger, his wife, his children, his parents-in-law, Miss Nordmann, two other women whom I don't know, Oblak and I.

Q What did you do when you arrived in Schwarzenfeld?

A In Schwarzenfeld we left the train, we took the children down into the village to find quarters or shelter for them, then we went to the railroad station. We also found shelter. Then Major Berger and his wife came and right after that the air raid took place.

Q Did the prisoners get out?

A I could not see that because I was not present personally.

Q Do you know what Berger did in Schwarzenfeld after his arrival there?

A He went to the Burgermeister to ask for food rations for the prisoners as always.

Q Do you know a Captain Beblo?

A Yes.

Q Did you see him in Schwarzenfeld?

A Yes.

Q When and where did you see him?

A Right after the air raid I heard Berger tell him that the column would be divided and that Beblo should take the prisoners who were capable to march, and Sommerfeld.... No, vice versa: Sommerfeld should

those who were capable of marching and Beble was to take those who were incapable of marching.

Q Can you tell us exactly what Berger told Beble at that time?

A Yes, he said that those incapable of marching would have to be sheltered somewhere.

Q Did you hear any other order given by Berger?

A Nothing else but that.

Q Did you have any dead and wounded during the air raid?

A Yes.

MR. BARKWITZ: May it please the court, I would like to have this witness also instructed not to answer until the question has been translated.

PRESIDENT (to interpreter): Pass on those instructions to the witness.

QUESTIONS BY DR. SACKER:

Q What happened to those dead and wounded?

A The wounded were bandaged. The dead were picked up by some Wehrmacht authorities on cars.

Q Did you see the SS or hear the SS shoot in Schwarzenfeld?

PROSECUTION: I object to counsel leading the witness, may it please the court. (Colonel Denson had resumed his place in the courtroom)

PRESIDENT: Objection sustained.

Q Where did you go from Schwarzenfeld?

A From Schwarzenfeld the transport continued to Neunburg, in Vorwalde.

Q How did you get to Neunburg?

A We traveled by car: Berger, his wife, his children, Miss Normann, two other women, Culak and I.

Q Do you know when you arrived in Neunburg?

A In Neunburg, I can't say exactly, but it must have been around the 20th of April or around that time.

Q What did Berger do in Neunburg?

A It was late in the evening when we arrived and he tried to talk to the Burgermeister to get food for the prisoners who would arrive later. But it was too late, it could only be taken care of the next day.

Q Did you see any prisoners on the road between Schwarzenfeld and Neunburg?

A No.

Q Do you know where the prisoners marched?

A Later on prisoners passed through Nemburg.

Q Did anything unusual happen in Neunburg?

A We stayed in a hospital there, and stayed there for two days. At 9:00 o'clock in the evening—I can't give the exact time—the Burgermeister called and said that there was a dead prisoner lying in town.

Q What did Berger do?

A The major and Dalek and I — we went to the Burgermeister and he showed us this dead body of the prisoner which was under an arch way.

Q What was noticeable in his physical appearance?

A It was in the evening, it was dark. I was not able to determine that.

Q What did Berger do?

A He saw to it that the dead man was taken away.

Q Was it determined whether this man was from Berger's column?

A I don't know that.

(Dahlke - Direct)

Q Did you see any of the prisoner columns in Neunburg?

A Yes.

Q Did you see Sommerfeld at that time?

A No.

Q How long did you stay in Neunburg?

A Two days.

Q Did anything unusual happen to the prisoners in Neunburg?

A I don't know.

Q When did you leave Neunburg?

A The second day, in the evening.

Q Where did you go?

A To Roding.

Q Who went to Roding?

A Berger, his wife, children, parents-in-law, Miss Nordmann, Cblak and I and two other women.

Q Did you see any prisoners in Roding?

A I did not see prisoners any more.

Q What did Berger do in Roding?

A He went to the district office in Roding.

Q What did he went to do there?

A He inquired whether any prisoners had passed through there or something like that; I can't say exactly.

Q Where did you go after leaving Roding?

A In Roding Berger separated from us.

Q After this time then you do not know anything about Berger and the prisoners any more?

A Nothing any more.

Q Referring to the dead and wounded in Schwarzenfeld, from where did the Wehrmacht come—the Wehrmacht which had, according to your testimony, taken care of the wounded?

A According to my assumption, from Schwarzenfeld

Q Please explain to the court why the Wehrmacht arrived?

A So the dead could be taken away.

Q Who called for the Wehrmacht?

A Berger.

Q Why did you separate in Roding?

A Because there was a tank alarm. It was said that the allied troops were approaching Roding.

DR. ACKER: No further questions.

PRESIDENT: The court will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 5 December 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date .....
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: Einzelheiten: .....

Second Charge: Zweite Anklage:

Particulars: Einzelheiten:

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

Pages 7638 - 7703 Incl.

Case No. 1

Prosecutor

~~Summary~~
~~Intermediate Military Court~~
*General

Defence Counsel

Place DACHAU, GERMANY

Interpreter

Date 5 December 194 6
0900 - 1700 Hours

Reporter

~~Members of Court~~

WITNESSES:

HERMANN KAHLER
INGEBORD NORDMANN
HERMANN SOMMERFELD

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

5 December 1946 0900 - 1700 Hours Pages 7638 - 7703 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
HERMANN DAHLKE		7641			
INGEBORG NORDMANN	7642	7661 7666	7674		
HERMANN SOMMERFELD	7675 7685				

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-66	Diagram	7696	7698

Ta 653 12/5 IB 1
Floss.

Camp Dachau, Germany
5 December 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present; all of the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Pinter, who are absent on business of the prosecution; all of the personnel of the defense are present with the exception of Dr. Engelhorn, who is absent on business of the accused; all of the accused are present with the exception of Oswalt, Losch, Eisbusch, Mussfeldt and Wurst, who are in the hospital, and Lipinski, Retzlaff and Bongartz, who are in the bunker. The interests of those named accused absent are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom.

PRESIDENT: The accused that are in the bunker at the present time, what is their status?

PROSECUTION: I will ask to have the defense counsel, may it please the court. I am not informed.

DEFENSE COUNSEL: May it please the court, as far as I am informed, Bongartz and Retzlaff are in arrest in the bunker on bread and water, and Lipinski I think is in the bunker on account of illness.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 0920 hours.)

(Whereupon the court was opened at 0930 hours.)

PRESIDENT: The court will come to order.

(Dahlke)

Ta 653 12/5 IB 1
Floss.

Camp Dachau, Germany
5 December 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present; all of the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Pinter, who are absent on business of the prosecution; all of the personnel of the defense are present with the exception of Dr. Engelhorn, who is absent on business of the accused; all of the accused are present with the exception of Oswalt, Losch, Eisbusch, Mussfeldt and Wurst, who are in the hospital, and Lipinski, Retzlaff and Bongartz, who are in the bunker. The interests of those named accused absent are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom.

PRESIDENT: The accused that are in the bunker at the present time, what is their status?

PROSECUTION: I will ask to have the defense counsel, may it please the court. I am not informed.

DEFENSE COUNSEL: May it please the court, as far as I am informed, Bongartz and Retzlaff are in arrest in the bunker on bread and water, and Lipinski I think is in the bunker on account of illness.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 0920 hours.)

(Whereupon the court was opened at 0930 hours.)

PRESIDENT: The court will come to order.

(Dahlke)

PROSECUTION: May it please the court, let the record show that all the personnel who were present before the court closed are now present, and let the record further show that Dr. Engelhorn has returned and is now present.

PRESIDENT: Colonel Wilson, by whose authority are Retzlaff and Bongarts in the bunker at the present time, in arrest?

DEFENSE COUNSEL: Sir, they are in the bunker, according to information I received I think Monday, by authority of the security commander who, at that time, due to shifts in personnel, was an American sergeant. After discussing the matter with him I found that he took his action under a condition of some urgency, and I think it only fair to state that so far as I am informed, I believe the sergeant acted with good judgment at that time.

PRESIDENT: Do you know whether a report was submitted to the Chief of War Crimes of Dachau, Colonel Bresee, and to the Post Commander?

DEFENSE COUNSEL: I personally discussed with the Executive Officer of the post certain events which led up to this matter, but not the arrest itself. I am not informed as to whether Colonel Bresee was apprised of it or not.

PRESIDENT: Mr. Prosecutor, the court at this time desires to call the security officer.

(Whereupon Second Lieutenant Fred W. Noble was called and appeared before the court.)

DEFENSE COUNSEL: May it please the court, the security officer now being present, I think it only fair to state that from my personal knowledge he has been on this detail somewhat less than 24 hours--the

present security officer, Lieutenant Noble. I have within the past fifteen minutes been informed by several of the prisoners that they received no breakfast this morning.

PRESIDENT: You are the security officer of War Crimes at Dachau at the present time, Lieutenant?

LIEUTENANT NOBLE: That's right, sir.

PRESIDENT: The court directs that you bring Bongarts, No. 5, and Retzlaff, No. 37, into court without any further delay, or else furnish this court with the authority for their absence either approved by Colonel Bresee or the Post Commander. Now further, Lieutenant, I want you to look into this matter of the report from the senior defense counsel that these prisoners were not given breakfast this morning, and I want you to make an official report about it at your earliest opportunity. An oral report will be sufficient, Lieutenant Noble.

LIEUTENANT NOBLE: Yes, sir.

(Whereupon Lieutenant Noble was excused and withdrew.)

PRESIDENT: The court will take a recess.

(Whereupon at 0950 hours the court recessed until 1030 hours.)

(whereupon the court reconvened at 1030 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Dr. Engelhorn who is absent on business of the accused; all the accused are present with the exception of Eisbusch, Hussfeldt, Hurst, Hatzke, Oswalt and Losch who are ill, and Lipinski who is in the bunker, ill.

The witness is reminded he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please the courtroom.

PRESIDENT: Mr. Prosecutor, the court understands then that all the defendants who are listed as absent are sick in the bunker or sick in the hospital? The interests of these men are being taken care of by counsel at the present time?

PROSECUTION: The is the information I have, sir. The interests of those named accused are being taken care of by counsel.

HERMANN DAHLKE, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

PRESIDENT: Defense?

DR. MACHER: No further questions.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q You spoke of a conference that was had at Neunburg with respect to one dead prisoner, is that correct?

A Yes.

Q Who participated in that conference?

A Major Berger, Oblak, and I.

Q Is it a fact that the burgomeister of Neunburg also participated in that conference?

A Yes, he notified us about that.

Q Is it not a fact that during that conference the burgomeister requested of Berger that no more prisoners be shot within the confines of Neunburg?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

DR. WACKER: No further questions.

PRESIDENT: Questions by the court? Apparently not. The court understands the defense is finished with this witness

DR. WACKER: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: Inge Nordmann now appears for the accused, Sommerfeld, Berger and Ginschel.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: Court will come to order.

MR. HALL: If the court please, I request leave to remove Schmitz from the courtroom.

PRESIDENT: Court will grant the request.

INGEBORD NORDMANN, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your name?

A Ingebord Nordmann.

Q How old are you?

A 26 years old.

Q Are you married?

A No.

Q Where is your residence?

A Wachendorf in County Syke.

Q Do you have any profession?

A Yes.

Q Which one?

A I am an employee in an office.

Q Do you know a certain Major Berger?

A Yes.

Q If you see him, please point him out.

DR. MACKE: The witness has identified No. 3 as Berger.

Q Where did you learn to know Berger?

A In Budapest.

Q When was that?

A The end of January 1944.

Q What were you doing in Budapest at that time?

A I was a civilian employee there then.

Q Who employed you?

A The Welfare Detail in Hungary.

Q What was Berger doing in Budapest?

A Berger came to Budapest as commander of the Welfare Detail.

Q How long did Berger stay in Budapest?

A Until the end of May 1944.

Q Why did he leave Budapest?

A He received orders to drive to Munich and was arrested there.

Q How do you know that?

A That was told to us there in our official place of work.

Q What was told to you?

(Nordmann-direct)

A That Major Berger had been arrested because he had insulted Himmler.

Q When did you see Berger again?

A 2nd of April 1945.

Q Where?

A In Flossenburg.

Q How did it happen that you met Berger in Flossenburg?

A He had written to me that he was in Flossenburg.

Q And how did you get to Flossenburg?

A My official place of work was deactivated and I was released from duty and on my return trip I visited the family of Berger.

Q Please tell us again the date when you came to Flossenburg?

A 2nd of April 1945.

Q Where did you live then in Flossenburg?

A With Berger's family.

Q Do you know anything about what Berger had to do in Flossenburg at that time?

A I know he was commander of the battalion.

Q Do you know anything about his official duties?

A No.

Q Did you take part in the transport of prisoners which left Flossenburg?

A Yes.

Q Do you know when that was?

A The 16th of April 1945.

Q Please explain to the court what you know about this transport; how the transport was made up and how you happened to take part in it.

A I was supposed to get Mr. Berger from his office on the 15th of April but I didn't meet him there. I met him with the doctor and he told me there he had been relieved of his duties with the battalion. The commandant of the camp, Koegel, had ordered that and he told me that on the next day, the next morning, he was supposed to conduct a transport to Dachau.

(Nordmann-direct)

Q Did he tell you anything about any possible instructions in regard to the transport?

A He didn't tell me anything about any instructions in regard to the transport, he merely gave me the reason he had been relieved of his duties in the guard battalion.

Q What was the reason?

A He had invited two prisoners to come into his private home. He had invited them there and the commandant of the camp had thrown that in his face.

Q When did the transport leave Flossenburg?

A The 16th of April.

Q What was the means of transportation for the transport?

A Railroad.

Q Did you also go by rail?

A Yes.

Q Please tell us what you discovered there in the railroad station?

A When I got to the railroad station in Flossenburg there was a train standing there. The prisoners had already climbed into it and I also climbed into a railroad car that had been assigned to me.

Q Do you know how long the train was? By that I mean, how many cars it contained?

A I can't tell you exactly. It was rather long.

Q What kind of railroad cars were they?

A They were closed baggage cars.

Q What kind of a car did you get into?

A In one of these cars, the one that was assigned to me.

Q Who was in that car with you?

A Major Berger, his family that is his wife and children, his parents-in-law, and the two prisoners, Oblak and Dahlke and two SS people. At the end three SS female assistants came.

(Nordmann-direct)

Q Do you know the names of these female assistants?

A No, I can only remember one woman or one Miss, I don't know which it was. Barth.

Q Do you know a 1st Lt. Sommerfeld?

A Yes.

Q Please point him out if you see him.

A Up there. (indicating)

DR. WACKER: The witness has identified No. 47 as Sommerfeld.

Q Did you see Sommerfeld in Flossenburg before the train took off? Where was he?

A I saw him at the train.

Q Was he in your car?

A No.

Q Where did the train then go?

A To Floss.

Q Did the train stop in Floss?

A Yes it stopped because we had a direct air raid.

Q Please tell us what happened during the air raid and what you did.

A The train came into Floss and stopped and the air raid had already started, that is to say, shots were being fired. Everybody jumped out of the car and looked for cover.

Q When you say everybody, whom do you mean?

A First of all, everybody who was in our car.

Q Did the prisoners also get out?

A The prisoners also and SS people.

Where did you go?

A I went into the building of the railroad station.

(Nordmann-direct)

Q Who went along with you?

A Major Berger and family and 1st Lt. Sommerfeld, the prisoners, the SS female assistants.

Q Whom do you mean when you say "the prisoners"?

A Oblak and Lehlke.

Q You mentioned 1st Lt. Sommerfeld. You definitely remember 1st Lt. Sommerfeld was in the railroad station?

A Yes.

Q What happened when you were in the railroad station?

A The flyer fired shots and during the air raid Major Berger telephoned to Flossenburg.

Q Did you overhear this telephone conversation?

A Yes.

Q What did he say?

A He asked for medics to come.

Q Did he already know at that time that people were wounded?

A Yes, because the flyers were making repeated dives. They would dive down and attack, return and attack again.

Q Did the medical personnel come?

A Yes.

Q Please describe what you saw after the air raid was over.

A I saw dead people and wounded people.

DEFENSE COUNSEL: The defense requests permission to withdraw Skierka.

PRESIDENT: Approved.

QUESTIONS BY DR. TACKER:

Q About how many?

A About 20.

Q Were they prisoners? What kind of people were they?

A They were prisoners, SS people and also some people from the staff of the train.

Q What happened to the dead people and the wounded people then?

A They were taken care of and bandaged.

Q Can you tell us where these dead people or wounded people were lying after the air raid was over?

A Near the train. It looked as though they had been wounded while they were seeking cover.

Q Did you see any SS people fire shots?

A No.

Q Did you hear any shots fired by SS people?

A No.

Q Do you believe that you can distinguish between a shot fired from a rifle and a shot fired from a gun on an airplane?

A Yes.

Q What was done after these dead people and wounded people were taken care of?

A In the afternoon the train drove on.

Q What train?

A The same train, our train, the train we were in.

Q I mean, did you get into the same train?

A Yes.

Q Are you sure that that was the same train?

A Yes.

Q How many trains were standing in the railroad station in Floss?

A I don't know.

Q How do you know that that was the same train?

A Our baggage was in there.

Q Who got into the train with you?

A The same people who had got into the train with me in Flossenburg.

Q Were the same people in the car as formerly?

A Yes, that is to say, the parents-in-law of Major Berger stayed back in Floss.

Q Did Berger give any orders?

A Yes, he ordered, before the train was put in motion, that the prisoners bring pieces of their clothing and tie them onto the railroad cars so that in the event of a future air raid attack they would know they were attacking a prisoners' train.

Q Did that happen?

A Yes.

Q What kind of pieces of clothing were tied onto the cars?

A White pieces of clothing.

Q Did anything happen in Floss which was of great interest?

A Yes, just before the train put itself in motion I was sitting in the car and I heard Mr. Berger say to an SS man that he should hang his rifle on his shoulder, didn't he know it wasn't allowed to fire any shots?

Q Did you see the SS man?

A No, I was already in the wagon, in the car.

Q Where was Berger at that time? I mean was he inside the car or outside the car?

A I don't know anymore. I know that he was very close to me. It is possible he was already in the car.

Q Did you hear the SS man answer anything in regard to that?

A Yes, he said, "Yes, sir."

Q What happened then?

A We went on in the direction of Weiden.

Q Did anything unusual occur on the stretch between Floss and Weiden?

DEFENSE COUNSEL; The defense requests permission to withdraw Geisberger and Ginschel.

PRESIDENT: Approved.

DEFENSE COUNSEL: Let the record show that No. 46, Skierka, has returned to the dock.

QUESTIONS BY DR. OKER:

Q Did anything unusual take place on the stretch between Floss and Weiden.

A No, nothing unusual.

Q Where did you go then?

A To Schwarzenfeld.

Did anything unusual happen between Weiden and Schwarzenfeld?

A Not anything except repeated air attacks and in Luhewildenau people escaped.

How do you know that?

A I saw that. It took place during a strafing attack.

Q Did the SS shoot at these people?

PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q Have you anything to say in regard to this escape?

A No shots were fired by the SS.

Q Did anything else unusual occur between Weiden and Schwarzenfeld?

A No.

Q What happened after the train had arrived in Schwarzenfeld?

A The people who were sitting with me in my compartment got out.

Q Did you see Sommerfeld at the railroad station in Schwarzenfeld immediately after the train had arrived there?

A No.

Q Do you know where Sommerfeld had gone at the railroad station in Schwarzenfeld?

A No.

Q What did Berger do in the railroad station in Schwarzenfeld?

A He got out of the compartment to go with us and ordered Capt. Beblo t. come to him.

Q Do you know Capt. Beblo?

A Yes.

Q What was his physical appearance, what did he look like?

A Well, how should I tell you? Do you mean his build, his height? In build and height he resembled 1st Lt. Sommerfeld.

Q Did he have a moustache?

A I can't remember that.

Q What happened after Berger had ordered Beblo to come to him?

A He ordered Capt. Beblo to take over the train because he wanted to rest up due to the fact he hadn't slept for days and nights.

Q Please describe to us exactly what Berger said to Beblo.

A Well, he just told him what I just mentioned and beside that he ordered Beblo to split up the guard and ordered that no shots were fired.

Q Did Beblo give any answer?

A Yes.

Q Did he answer "yes"? Was that the answer or did he say anything else?

A He said, "Yes, yes sir, Major."

Q What did you do then and what did Berger do?

A We went over to an inn, a tavern, in the ar a near the railroad station.

Q When you say "we" whom do you mean?

A Major Berger, I, the SS female assistant, Mrs. Barth, and the two other ladies.

Q Where was Mrs. Berger?

A Mrs. Berger had already gone away from the train earlier, over toward the railroad station.

Q What happened then?

A We went into this restaurant, this tavern there at the railroad station but we had to leave it immediately because another air raid started.

Q Where did you go then?

A We went to the waiting room in the railroad station. He thought that that was an air raid protection cellar.

Q Who went along with you into the railroad waiting room in the station?

A Major Berger, his wife and children and Oblak and Dahlke and I.

Q Did you spend the whole time of the air raid over there?

A Yes.

Q What did you see after the air raid was over and you had left the waiting room of the railroad station?

A Dead people and wounded people.

Q Where were these dead and wounded lying?

A Near the railroad station the prisoners had camped there and these wounded were lying there and also in the railroad station.

Q Had the prisoners already got out of the train when you went into the restaurant or were they still in the train?

PROSECUTION: I object to that as being leading and suggestive.

PRESIDENT: Objection sustained.

DR. WACKER: I withdraw the question, I don't consider it important.

QUESTIONS BY DR. WACKER:

Q What happened to the dead and wounded?

A They were taken care of.

Q Who took care of them?

A The medics.

Q What did Berger do?

A Major Berger went to the mayor in order to ask for medical personnel.

Q What did you do during this time?

A I went back to the restaurant with Mrs. Berger and the children.

Q When did you see Berger again then?

A Somewhat later when he asked me to write something for him.

Q What time of day was it when he asked you to do that?

A In the morning. It wasn't early in the morning, in the forenoon, during the morning.

(Nordmann-direct)

Q What did he ask you to write for him?

A An order.

Q Was there a typewriter in this restaurant?

A No, I wrote with the pen.

Q Please tell us what you wrote for Berger.

A I wrote an order and made three copies of it. According to this order the rail transport should be split up into two different groups, people who were capable of marching and the other group, consisting of wounded people and sick people, and 1st Lt. Sommerfeld got the order in regard to the people capable of marching and Capt. Beblo got the order in regard to the people who were wounded and sick.

Q Please tell us what else was in this order.

A Capt. Beblo was supposed to take the sick and wounded by rail to Nabburg and 1st Lt. Sommerfeld was to take charge of the people who could march and continue marching with them along a route which had been already determined.

Q Was there anything else in this order?

A Yes. 1st Lt. Sommerfeld was to make short breaks. That is, to march only short lengths of time, and there was something about food in there, and it was also written in this order that nobody was allowed to shoot and that the column should be turned over if contact was made with enemy troops. No prisoner was allowed to be mistreated and anybody who got sick during the march was to be taken along to the next village and there they should be turned over to the mayor of the village or the chief boss in the village. This is the most important part.

DEFENSE COUNSEL: May it please the court, let the record show Geisberger, Oswalt, Eisbusch, Matzke, Surat and Wunsfeldt have returned to the dock.

PRESIDENT: Proceed, Dr. Hacker.

(Normann-direct)

QUESTIONS BY DR. WACKER:

Q Did Berger dictate this order to you?

A Yes.

Q And did you with your own hand make two copies of this order?

A Yes.

Q What happened with these three copies then?

A Major Berger had Lt. Sommerfeld and Capt. Beblo come to him and he read this order aloud to them.

Q Were you present when Sommerfeld and Beblo were ordered to come to Berger?

A Yes.

Q Were they ordered to come to the same room where the order had been written?

A Yes.

Q What happened then? What else happened?

A Major Berger gave a copy to Capt. Beblo and 1st Lt. Sommerfeld, they each got a copy.

Q What did Beblo do with the order.

A Both the gentlemen went away.

Q What do you mean, both?

A Capt. Beblo and 1st Lt. Sommerfeld.

Q Did you see anything else in regard to these orders which you had ritten?

A Major Berger kept one copy.

Q Do you have anything else to say in regard to this order?

A Later on I saw 1st Lt. Sommerfeld reading this order aloud to his SS people.

Q Where did that take place?

A In front of the restaurant.

(Nordmann-direct)

Q What did you see?

A I was looking out of the window and I saw the SS people standing around 1st Lt. Sommerfeld and he read the order aloud to them.

Q How do you know that that was the order which he was reading?

A I heard it.

Q At what distance were you standing from Sommerfeld?

A I can't estimate that in meters. Perhaps from here to up there (indicating).

Q Do you mean the court's table up there?

A Yes.

DR. WACKER: Let the record indicate that the witness estimated a distance of about seven meters.

Q Was the room in which you were standing on the ground floor?

A Yes.

Q Was the window open?

PROSECUTION: Just a minute, may it please the court. Counsel has been leading the witness from the beginning to the end. I object to any further leading questions on the part of the counsel. I have tried to refrain from continually objecting in order to shorten this but I think he has practised law long enough to know a certain amount of latitude is permitted but he is exceeding it and has been exceeding it all morning.

DR. WACKER: I withdraw the question, I don't consider it important.

PRESIDENT: The objection is sustained but at the same time Doctor, you must avoid this matter of leading questions. The court does not feel in the case of this particular witness it is necessary to give you any undue latitude in that respect.

QUESTIONS BY DR. WACKER:

Q What else happened in Schwarzenfeld?

A We left Schwarzenfeld by rail in the evening.

(Nordmann-direct)

Q What do you mean, "we"?

A The people who had been in our railroad car.

Q How did you leave, what transportation?

A With a truck.

Q Where did you go?

A We went in the direction of Neunburg-Vormwalde.

Q Did anything unusual take place between Schwarzenfeld and Neunburg while you were travelling?

A We had trouble with our car, it broke down and we had to walk by foot. We had to walk a short distance on foot.

Q Did you see anything in regard to the prisoners' column?

A We overtook a column after we had passed Schwarzenfeld.

Q Did you recognize anyone in the prisoners' column?

A Yes.

Q Who?

A 1st Lt. Sommerfeld.

Q Did your car stop near the prisoners?

A Yes, Major Berger asked if everything was all right.

Q Whom did he ask?

A 1st Lt. Sommerfeld.

Q What did Sommerfeld answer?

A He answered, "Yes, sir" and then we drove off.

Q Did anything else of interest take place during this stretch between Schwarzenfeld and Neunburg?

A No.

Q When did you arrive in Neunburg?

A At night.

(Nordmann-direct)

Q What time?

A I can't tell you.

Q Did anything else take place in Neunburg on this day?

A No.

Q What happened of interest on the next day?

A The next day Major Berger went to the mayor of the town in order to take care of the food situation for the prisoners who had not yet arrived.

Q How do you know that?

A That's what he said.

Q Weren't you there yourself?

A No.

Q Please tell us what else happened this day.

A Nothing else happened that day.

Q Did you see prisoners in Neunburg?

A No.

Q Did you see Sommerfeld in Neunburg?

A No.

Q What happened on the next day, then? Do you know what date that was, that is, the first day you spent in Neunburg?

A The 20th.

Q What happened on the next day?

A The next day Major Berger was again at the mayor's office because he wanted to get a rail connection so he could transport the prisoners by rail but it wasn't possible.

Q Did anything else of interest take place this day?

A Not that I know of.

Q What happened on the day after that?

A We went on toward Roding by night.

(Nordmann-direct)

Q Whom do you mean, "we"?

A The same people in question who had been in the railroad compartment together.

Q Did anything unusual take place between Neunburg and Roding?

A Our car broke down again.

Q What did you do?

A First we drove with a truck and after that with a horse and wagon.

Q Did you see anything unusual while you were covering this stretch?

A Yes, in front of Roding.

Q What did you see?

A I saw dead bodies there.

Q Please describe exactly what you saw.

A They were actually silhouettes of a human being because it was already night.

Q You s oke of dead bodies. How many?

A Two.

Q Did you examine these dead bodies closely?

A No, not I.

Q Who did?

A Major Berger.

Q What did he do then?

A Then he drove on to Roding.

Q What happened in Roding?

A We came in Roding at night and he went over to the Kreisleiter.

Q Did he just tell you about that or were you actually present at that occasion?

A We stopped in front of the house of the Kreisleiter.

Q What do you know about what Berger had done.

A We spent the night in Roding and the next morning he again went to the Kreisleiter and there he found out that the column of Koegel had arrived and

and Koegel was also there and afterward he told me that these two dead bodies belonged to the column of Koegel.

Q What else happened in Roding?

A Major Berger met Koegel there.

Q Did you see that with your own eyes?

A Yes, and Koegel ordered Berger to report to him personally at Laiblfing.

Q Did anything else of interest take place in Roding?

A Mrs. Berger had already left, that is in Roding. She left from Roding and Major Berger and I also drove off from Roding, that is after Koegel had given him the order, because he had heard in Neunburg-Vormwalde Allied tanks had already come in and a tank alarm had already been given in Roding.

Q Did anything happen on the stretch between Roding and Liablfing?

A No.

Q What was goingon in Laiblfing?

A In Laiblfing Major Berger reported to Koegel and there he was supposed to get a new column from Koegel and was supposed to take it to Dachau.

Q Did he do that?

A No.

Q What did Berger do?

A Berger drove on then by way of Mainburg.

Q There?

A To Rotteneg.

Q What reason did he have to drive to Rotteneg?

A His family and his mother were there.

Q After you had left Rotteneg, did you see anything at all of the prisoners?

A No.

DR. WACKER: No further questions.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. Mr. McKay.

MR. MC KAY: I should like to examine this witness on direct examination on behalf of the accused, No. 15.

PRESIDENT: Proceed.

QUESTIONS BY MR. MC KAY:

Q Miss Nordmann, when you were in Schwarzenfeld on this evacuation transport did you come in contact with a prisoner by the name of Ginschel?

A I saw him.

Q Will you explain to the court what called your attention to this particular person?

A He was standing in my immediate vicinity.

Q Will you explain what, if anything, caused you to notice him particularly at that time?

A He is a cripple. He had lost his left hand.

Q Was there anyone else standing near Ginschel at the time you saw him in Schwarzenfeld?

A Yes, Major Berger.

Q Can you give the court any idea of what time of day this was that you saw Ginschel and Major Berger standing together?

A In the morning when we arrived in Schwarzenfeld.

Q Did you ever see Ginschel after that time?

A No.

Q Do you think you could recognize Ginschel if you saw him again?

A Yes.

Q Will you look over the men seated behind me and see if you can recognize the man you remember as Ginschel?

MR. Mc KAY: Let the record show that the witness has identified the accused wearing No. 15 as Ginschel. That completes my direct examination.

PRESIDENT: Any further direct examination on the part of the defense? Apparently not. Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q How long did you observe Ginschel in Schwarzenfeld?

A A short time.

Q How long is a short time?

A Several minutes.

Q Less than five?

A I wouldn't like to commit myself there.

Q What is your best judgment?

A Yes, a few minutes.

Q Were you on the train at that time?

A I can't remember that.

Q Did you see Berger and Ginschel together at Floss?

A I can't remember that either.

Q Is it that you can't remember because you didn't see him or that you may have seen him and can't remember?

A It is possible that I saw him several times but I can't remember. I can't remember where I saw him.

Q You would have remembered him as being a cripple, would you not?

A Yes.

Q Where did you see him the first time?

A Where I saw him for the first time?

Q Yes.

A In the transport but I can't remember what town.

Q Did you see him prior to the time you saw him at Schwarzenfeld?

A Yes.

Q Was it between Holleischen and Schwarzenfeld?

A Between Flossenburg and Schwarzenfeld. We left from Flossenburg.

Q How many cars were in that train?

A There were a large number. I can only estimate the number.

Q All right, give us your best judgment, please.

A 30 to 40.

Q What car was Ginschel in?

A I don't know.

Q What section of the train were you riding in?

A In the compartment of the transport leader.

Q Was that near the engine or the tail end of the train?

A I don't know anymore.

Q How long were you on this train?

A How long I was in this train?

Q Yes.

A From Flossenburg to Schwarzenfeld.

Q How long did that take?

A We left on the 16th and the 19th we were in Schwarzenfeld.

Q You were on it three days and you can't tell the court at this time in what part of the train you were?

A I already said in the compartment of the transport leader.

Q Can you tell the court then where that compartment was located?

A No.

Q How many times did you see Beblo?

A A number of times.

Q And how many is a number of times, please?

A I saw him in Flossenburg, I saw him in Schwarzenfeld.

Q Any other time?

A I can't remember.

Q Who suggested to you that Beblo looked like Sommerfeld?

A Nobody.

Q Why did you pick out Beblo in your description of Sommerfeld?

A I was supposed to describe Beblo and not Sommerfeld.

Why was it that you picked out Sommerfeld in your description of Beblo?

A Because I saw the two gentlemen together.

Q You don't know whether or not Beblo had a moustache?

A I don't remember that.

Q You did not get a good look at him, did you?

A I saw him just as you look at anybody else but I didn't notice anything unusual.

Does Dr. Engelhorn have a moustache?

A I don't know at all.

Q Well, look at him now and see if he has a moustache.

A Yes, he has a moustache.

Are you kin to Berger?

A No.

Were you employed by the SS?

A I was a civilian employee.

Were you employed by the SS?

A I was a civilian employee.

Who hired you?

A The army, the Wehrmacht.

When you say the army, do you mean the SS?

A No, Wehrmacht includes all parts of the Wehrmacht, all parts.

You were working with the SS, were you not?

A That wasn't anything especially by the SS, it was for all divisions of the Wehrmacht, everything that belonged to the Wehrmacht.

You were working for Berger, were you not?

A Yes.

(Horchem-cross)

Q Was Berger SS?

A Yes.

Q Where was it that the parents-in-law left this compartment, the parents-in-law of Berger?

A Where?

Q Yes, for the last time.

A In Floss.

Q You are positive of that?

A Yes.

Q You arrived in the same compartment with Hermann Dahlke, did you not?

A Yes.

Q All of you were there together, that is, the parents-in-law of Berger, you and Dahlke?

A Yes.

Q You testified that you knew the difference between shots from an airplane and shots from a rifle, is that correct?

A Yes.

Q What experience have you had with rifle fire?

A Well, you can tell that a shot fired by a gun aboard an airplane is much louder than a shot fired by a rifle.

Q Who told you to say that?

A Nobody.

Q Well, tell the court now what experience you have had in firing a rifle.

A Experience?

Q Yes.

A I never fired a rifle.

Q I see. Have you ever heard a rifle fired?

A Where?

Q Anywhere.

A Yes.

Q There?

A At home where we were.

Q What kind of rifle was that?

A I don't know.

Q How many prisoners escaped in Floss when they had this air raid?

A I don't know.

Q Did Berger tell you that?

A What?

Q How many prisoners escaped in Floss when they had the air raid?

A No.

Q Did you hear anyone tell Berger how many prisoners escaped in Floss when they had the air raid?

A No.

Q You were with Berger all the time, were you not?

A Yes.

Q You heard him give orders to other people and talk over the telephone did you not?

A Yes.

Q But you never heard anyone tell Berger and Berger never told you how many prisoners escaped in Floss during the air raid?

A No, I don't know.

Q How many prisoners escaped in Schwarzenfeld during the air raid?

A I don't know that either.

Q Didn't Berger tell you?

A No.

Q Didn't you hear anybody tell Berger?

A No, I just don't know it.

PRESIDENT: The witness is cautioned not to discuss the Flossenburg case with anybody during the course of this noon intermission. Court will adjourn until 1:30 this afternoon.

(Thereupon at 1200 hours the court recessed until 1330 hours)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present; all of the accused are present, with the exception of Losch, Oswalt, and Lipinski, who are ill, and whose interests are being taken care of by counsel. The witness is reminded that she is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination, Mr. Denson.

INGEBORD NORDMANN, called as a witness by the defense, resumed the stand, and being reminded that she was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION (continued)

QUESTIONS BY MR. DENSON:

Q How many times was it, Miss Nordmann, that Berger was required to say that there should be no shooting?

A He had to say it?

Q Yes.

A I heard him say it in Floss to the guard; then he dictated this order to me in Schwarzenfeld; and then I heard him tell it to Captain Neblo in Schwarzenfeld when he placed him in charge of the transport.

Q And did you hear him say it also in Neunburg?

A No.

Q Now, at this air raid in Schwarzenfeld the prisoners did not leave the train, did they?

A Yes.

Q How soon after the raid began was it that the prisoners left the

(Corrected cross-Bross)

train?

A After we had arrived with the train at Schwarzenfeld the prisoners left the train. At that time there was no air raid yet.

Q How far from the train was it that the prisoners proceeded?

A I can't give it in meters.

Q Well, give me your best judgment, please.

A Perhaps 30 to 50 meters; it could have been more.

Q And how far from the train was it that you and Berger and the rest of the Berger family were at the time of the raid?

A I was in the hall of the station, in the waiting room.

Q And how far was that from the train?

A I can't state that.

Q Well, what is your best judgment, please?

A I can't do that either; I don't know how far that was from the train.

Q How long did the raid last at Schwarzenfeld?

A How long?

Q Yes, how long.

A Approximately between one half hour and one hour. It was very long, so far as I was concerned.

PRESIDENT: The court would like to know whether or not the defense attorneys are having any difficulty hearing the witness.

DR. WACKER: Yes, it is hard to hear her. It would be better if the noise were cut off.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place at 1345 hours and reconvened at 1400 hours.)

PRESIDENT: Court will come to order. The court desires to caution the witness to speak loud enough. We are having difficulty hearing right at the present time in the courtroom due to the fans; and, Mr. Denson, will you speak louder too, please. The court might announce at the present time attempt

is being made to remedy the matter as fast as possible. In the meantime we will continue. Mr. Denson.

CROSS EXAMINATION BY PROSECUTION CONTINUED OF WITNESS NORDMANN:

Q Did you see the chain of guards that was placed around the prisoners at Schwarzenfeld during the air raid?

A No.

Q In other words, during the entire air raid there was no chain of guards around the prisoners, is that correct?

A Yes.

Q Did you see any of the prisoners during the air raid?

A During the air raid I took cover so I wouldn't be hit, and everybody else tried to do that too.

Q Well, from where you were, were you able to see the prisoners?

A I was in the station.

Q Answer my question, please. From where you were could you see the prisoners?

A During the air raid?

Q During the air raid.

A While the shooting was going on I could not see them because, as I said, I took cover.

Q And immediately prior to the air raid were you able to see the prisoners from where you were taking cover?

A Before the attack, yes.

Q Where were you immediately before the attack that permitted you to see the prisoners?

A As I have mentioned, before the air raid I was in the inn and when the air raid started I went over to the waiting hall.

Q How long was it before the shooting began that you left the inn and went to the hall?

A I can't state the time.

Q Well, was it a short period of time or a longer period of time?

A The planes came, so, of course, I started running, and then the shooting started.

Q So, as a matter of fact, during the air raid you do not know whether the SS shot prisoners at Schwarzenfeld or not, do you?

A I only heard the weapons aboard the planes or machine guns.

Q Well, didn't I understand you to say that the only difference you knew was that the shots from the plane made a louder noise than the shots from the rifles. Is that correct?

A Yes.

Q And if the plane was some distance away it would make less noise than it would if it were closer, is that not true?

A But the plane only fires when it is nearby.

Q Well, were you out there looking at it?

A On the outside, no.

Q How many planes came over there at Schwarzenfeld?

A I don't know.

Q And you also don't know whether or not rifles were fired or only weapons on planes, is that not true?

A By the flyers?

Q By the SS or by the flyers.

A I would have had to hear it if the SS had fired.

Q Well, were there few shots fired or many shots fired?

A The planes fired just like a machine gun fires—one after the other.

Q Well, were many shots fired or few shots fired?

A As I said, the weapons aboard the planes were machine guns and fired in a series.

Q Will you answer my question, whether many shots were fired or few shots were fired.

A Many shots.

Q So, as a matter of fact, if rifle fire had taken place at that time you would not have been able to have heard it, would you?

A Being higher, you can distinguish the rifle fire from machine gun fire.

Q You wouldn't have been able to have heard rifle fire, would you, when machine guns were firing on the planes and they were coming in close--is that not correct?

A I believe I could have.

Q Have you ever been in a situation where you were able to distinguish machine gun fire from rifle fire when both were going at the same time?

A No.

Q Where did the SS troops take cover during this air raid at Schwarzenfeld?

A At the station.

Q In other words, all the SS guards were collected together in the station, is that correct?

A No.

Q Well, where were they?

A I don't know that.

Q So you don't know whether or not they established a chain of guards around these prisoners before the raid or not, is that correct?

A As I have mentioned before, there was no chain of guards. What I understand a chain to be is that one man stands right next to the other.

Q Well, if you understand that they do not have to stand necessarily one man next to the other was there or was there not a chain of guards placed around these prisoners before the raid at Schwarzenfeld?

A Not that I know of.

Q Where did the prisoners take cover at Schwarzenfeld?

A Just there wherever they could find cover--anywhere near houses, or

at the station.

Q Well, was there any place there to provide cover for these prisoners at Schwarzenfeld?

A Yes.

Q Where?

A For instance, in the waiting hall or in the station building.

Q And how many prisoners were in that waiting hall?

A I only saw the prisoners Oblak and Dahlke in the waiting hall.

Q And how many did you see in other parts of the station?

A During the attack I was only in the waiting hall.

Q Well, you went from the restaurant to the waiting hall, did you not?

A Yes.

Q And during that time did you see any prisoners in other parts of the station?

A As I have mentioned before, the prisoners were resting on a meadow before the attack and after the attack was over I saw wounded prisoners along side the station.

Q And this meadow was right next to the train track, was it not?

A Not directly next to the tracks but a little ways away from there.

Q About how many meters?

A As I said before, about 30 to 50 meters.

Q And there was no protection in this meadow, is that not correct?

A Not on the meadow, no; not all of them were in the meadow.

Q Well, the rest of them were right along side the train, were they not?

A Not directly next to the train, but I saw the wounded along side the building later—not directly next to the train.

Q Well, you saw dead and wounded lying right next to the train, did you not?

A Yes.

Q Don't you know, as a matter of fact, that orders were given for those prisoners not to leave the immediate vicinity of that train?

A No.

Q And don't you know also that no effort was made to protect those prisoners from the air attack there at Schwarzenfeld?

A No.

Q How long have you known Berger?

A I got acquainted with him the end of January 1944.

Q What work did you do for Berger?

A I was his secretary.

Q And you are not related to him in any way, is that correct?

A No.

Q And you came from Hungary over to Flossenburg where Berger was stationed, is that correct?

A Yes, from Austria.

Q And you were not ordered to Flossenburg from Austria, were you?

A No, I had been released; I was on my way back.

Q How many times did you go over your testimony with Berger and Dr. Wacker?

A Go over it? Not at all. Dr. Wacker asked me some questions.

Q Isn't it a fact that you and Berger and Dr. Wacker were right here in this room going over this testimony?

A Yes, I don't know what to understand under "going over". Dr. Wacker asked me questions in the presence of Major Berger.

COLONEL WILSON: At this point defense counsel states for the record that it is the custom of defense counsel to go over testimony and prepare witnesses before putting them on the stand. Also, that the prosecution has had the privilege of interrogating the witnesses before they go on the stand.

Q Now, when you were in Luhewildenau how many prisoners did you say escaped there?

A Several.

Q Who told you that?

A I saw that.

Q Where were the SS guards at that time?

A They also took cover just like I did during the air raid.

Q There was no chain of guards thrown around the column at Luhewildenau

A No, everybody took cover during the attack.

Q Did the prisoners takecover?

A Also.

Q Where?

A There were ditches and piles of wood and lots of woods.

Q Did you tell Berger the prisoners were escaping?

A No.

Q Did anybody else report to Berger that the prisoners had escaped?

A I assume that.

Q Did you hear it?

A No.

Q Did those prisoners come back voluntarily after the raid?

A Yes, generally, from what I saw.

Q How many prisoners were there in Luhewildenau?

A That I don't know.

Q How many prisoners were back at Schwarzenfeld?

A I don't know that either.

Q How many prisoners were back in Flossenburg?

A I don't know that either.

Q Now, you testified this morning that you heard that Berger was arrested upon insulting Himmler, is that correct?

A Yes.

Q What was the date on that?

(Nordmann-Gross)

A When he was arrested?

Q Yes.

A The end of May he went to Munich.

Q That was May 1944?

A Yes.

Q Did you also hear that he was arrested for permitting a drunken brawl to take place in his command?

A No, he was arrested because he insulted Himmler.

Q Did you also hear that he was arrested for making improper advances to one Fraulein Ebert?

A No.

Q Did you also know that he was arrested for coming out of the room of his secretary, Fraulein Feind?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q For which parts of the Wehrmacht was Berger commander in Budapest?

A For all parts of the Wehrmacht.

Q Can you state what you mean by that—for all of them?

A He was in charge of the support of the next of kin of all German soldiers.

Q What do you mean by "all parts of the Wehrmacht"?

A Army, Navy, Air Forces and Waffen SS.

DR. WACKER: No further questions.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court? Apparently not. The court understands the defense is finished with this particular witness.

DR. WACKER: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: The defense calls the accused Sommerfeld, No. 47, to the stand.

PRESIDENT: Sommerfeld, the court understands that you desire to take the stand in your own behalf, is that correct?

ACCUSED SOMMERFELD: Yes.

PRESIDENT: Proceed, Dr. Wacker.

HERMANN SOMMERFELD, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Hermann Sommerfeld.

Q How old are you?

A 55 years old.

Q Are you married?

A Yes.

Q Do you have any children?

A Yes.

Q How many?

A Three.

Q What is your civilian occupation?

A Postal secretary.

Q Where?

A In Storkowmark.

Q What education do you have?

A Eight years of public school and two years of specialist school.

Q Were you a member of the Wehrmacht in the first World War?

A Yes, I participated in the war from the beginning till the end.

Q What was your rank when you were discharged?

A When I was released from the Wehrmacht I held the rank of a Lieutenant A.D.

Q When were you released?

A October 2, 1923.

Q After you had been discharged from the Wehrmacht, what did you do?

A I applied with several agencies to be employed.

Q And where were you employed?

A The first of December 1925 I was drafted into the German Reichspost.

Q Were you then in the post office until you were drafted into the Wehrmacht again?

A I was with the post office from 1925 until I was called back to arms in August 1941.

Q Are you a member of the Party?

A Yes.

Q Since when?

A May 1, 1933.

Q Did you have any functions in the Party?

A No.

Q Were you a member of the SA?

A No.

Q A member of the Allgemeine SS?

A No.

Q What branch of the service were you drafted into in this World War?

A I was drafted into the country guards and then shortly thereafter

was sent to the guard battalion in Berlin, ZBC.

Q What does that mean--ZBC?

A "ZBC" means for "special purposes". That was the unit combined of the wounded and sick men.

Q Were you sent to the front?

A No, I was sent to this unit because I, myself, was not capable of going to the lines.

Q How long did you stay with this unit?

A I stayed with this unit until the 19th of July 1944.

Q What happened the 19th of July?

A July 19, 1944 I was discharged.

Q What rank did you hold then?

A Since June 1, 1942, I had been a First Lieutenant, and I held that rank when I was discharged from the Wehrmacht.

Q What did you do then?

A I returned and I reported to the post office again and I found out there that I had been placed on UK.

Q What does that mean--UK?

A That means that the German Reichspost sent an application to the Wehrmacht so that I would not be drafted again.

Q Did you then again do your duty with the post office?

A Before I was discharged I was sick already; I had rheumatism of the joints, and two months later I took baths.

Q Were you again on duty with the postal office?

A Approximately three weeks after I had taken these baths I received my furlough from the postal office and also the furlough I had coming from the Wehrmacht.

Q Did you then again go on duty with the post office?

A Approximately three weeks in December 1944.

Q And what happened then?

A Suddenly, the 4th of January 1945, I was drafted into the SS.

Q What rank did you hold when you went in again?

A I was drafted into the SS holding the same rank that I had held when I was discharged from the army.

Q Mr. Sommerfeld, were you ever in Flossenburg?

A Yes, I was stationed in Floss; I belonged to Flossenburg.

Q What did you do in Floss?

A In Floss I deactivated two companies.

Q Who was in charge of these two companies?

A This unit was under the guard battalion in Flossenburg, respectively, the commandant.

Q Who do you mean "the commandant"?

A Lt Colonel Koegel.

Q And who was the highest ranking officer in Floss?

A In Floss I was the highest ranking officer and was also made village eldest.

Q Were the soldiers in Floss members of the SS or of the Wehrmacht?

A All of them SS.

Q Were these men used as guards in Flossenburg?

A No. I should like to add that while the deactivation was going on these soldiers in Floss did their duty in the morning, that is to say, they were trained; then Flossenburg would also request single details of soldiers, forty or fifty at a time, to accompany transports or do other work, and by and by all of these soldiers were requested as details so that I finally didn't have a soldier left.

Q How long did you stay in Flossenburg?

A I was never in Flossenburg; I had to do my duty in Floss. From time to time I was ordered to come to the camp at Flossenburg to r ceive orders pertaining to the soldiers whom I had charge of in Floss.

Q Mr. Sommerfeld, did you take part in the transport of prisoners from

Flossenburg?

A Yes.

Q When was that?

A 16th of April 1945.

Q Please tell the court how you became a member of this transport.

A The 14th of April I returned from a detail. This detail took ten to fourteen days at the time. I went to Flossenburg and stayed one single night in the guest room of the officers' home there. In the evening of the 15th, at about 6 o'clock, an orderly came and told me that I would have to take part in a transport; Captain Beblo would be in charge of the transport, and I would have to report to him.

Q Was anything said at the time about the destination of the transport?

A No, nothing was said only that I was to accompany the transport, and that I was to report to Beblo, and that I would hear more about it.

Q Did you report to Beblo?

A I reported to Beblo and I was told the destination of the transport there.

Q Where to?

A From Flossenburg to Dachau.

Q What else did you hear from Beblo?

A After about two hours—it could have been 8 o'clock at night, Beblo told me he was not the commander of the transport any more but that Major Berger would take over.

Q What else were you told?

A Nothing else was said, but since I was surprised about the change in command I went to Major Berger and asked him whether the change was a fact and to find out the approximate time of the beginning of the march.

Q What did Berger tell you?

A Berger told me the following: It might be 12 o'clock. When

nothing had happened by 12 o'clock I returned and went up to Berger's room—he was staying up there because of night duty—and I asked him then when this transport would start. He said "Not within the next few hours since there are not enough cars at the station, and we will have to wait".

Q Did Berger give you any orders during this conversation at 12 o'clock midnight?

A No, not at first.

Q What happened then?

A I spent the last night fully dressed on top of the bed in the guest room of the officers' home. I did not sleep. At approximately 6 o'clock in the morning—it could have been 5:30 or a little earlier—I received word that the transport would start out now and that I would have to report to the square where they formed their formation.

Q Where did you have to re ort?

A That was on the roll call square behind headquarters building.

Q What did you see there?

A I met Major Berger there and he gave me the order to proceed down to the station and wait for the prisoners who would arrive shortly thereafter, and should distribute them to the individual cars upon their arrival.

Q Were other orders given on the roll call square?

A After this order was given to me, I went to the station immediately.

Q Who was present on the roll call square?

A Prisoners were standing on the roll call square near the main gate, not on the SS roll call square. On the SS roll call square I only saw troop formations.

Q What connection did Beblo have with the column?

A I don't know that.

Q Did he not participate in the transport?

A When I was in the station later on Beblo was there too.

Q Do you know what job Beblo had?

A No, I didn't know it at that time.

Q Did you find out about it later?

A I only heard it later.

Q What job did Beblo have?

A As witnesses have stated here already, Beblo was guard officer of the transport. I only found out about it later.

Q Did you then load the prisoners?

A I loaded the prisoners fifty in each car.

Q How many guards did you place in each car?

A I was not concerned with the guards, but I saw that SS men were sitting in some of the cars with the prisoners and there were some cars just filled with SS men. There could have been three cars completely filled with SS men. Then there was a car with food rations—no prisoners were in there. And there was the transport commander; he was in a car too. And that was all.

Q In what car did you travel finally?

A First I loaded all prisoners; finally the sick ones arrived; and after I distributed the prisoners onto all cars I had thirty of them left so I put those into a big car, a tremendously large car, in which eighty persons would have room, so that these prisoners had plenty of room.

COLONEL WILSON: May it please the court, defense requests permission to withdraw the accused Winkler from the dock.

PRESIDENT: Request granted.

(Whereupon the accused Ludwig Winkler withdrew from the dock.)

A (continuing) After everybody had been loaded I, myself, went around to look for a car that I wanted to travel in. I was in the car behind the car of the transport leader. In the car in which I was there were all SS men—non-commissioned officers, etc. I should like to remark here that I didn't know any one of these guards, neither the non-coms nor anyone else; they were all strange men to me. I want to stay with the truth—I knew one man there,

Klinkert, who has been a witness for me here in this case; however, he was the only one I knew; I didn't know anyone else.

Q Where did the train travel to?

A It left in the direction of Floss--towards Weiden.

Q What happened in Floss?

A As we arrived in Floss--the train had not stopped yet--an air attack started. That was the first time that I went through an air raid by low flying aircraft.

Q Please describe to the court what happened during the air raid--what the prisoners did, what you did, what the SS did.

A Instinctively every person, whether a prisoner, SS man--regardless--will take cover; it is the instinct of the human being; so that when the noise of a low flying aircraft is heard these people will try to take cover behind even the smallest object, whether it is a cover actually or whether it isn't. I am speaking here in front of officers who have surely been in attacks and know that it is the instinct of a human being to take cover; whether there is any possibility to take cover behind anything doesn't matter, so long as the human can find a cover of some kind, he will look for it. No one thought of the security of the prisoners at that time so they wouldn't escape. It was all a matter of seconds when the planes arrived; the fire came, and the shots were already in the train, that is to say, in front of the train and behind the train; a plane can never fire exactly into one spot, into one target, he always fires past it and he fires short and, of course, some of the rounds will hit.

Q Where did you take cover?

A I ran into the station. The station was not far away, otherwise I wouldn't have gone to it, but that was for me the next best cover.

Q Please tell us what you saw when you left the station?

A These planes flew back and forth a few times and fired machine gun

fire each time. After the air raid was over I went to the other side; I climbed over the train to find out what had happened on the other side. When I went over to the other side I saw that there were quite a few dead and wounded and that most of them must have been on the other side because, according to what I saw I estimated that we had had about one hundred casualties, wounded and dead, and, as has been verified by others later on and as I have stated in my first interrogation, the wounded and dead were thick in this place. I later on found out that my estimation could have been right. I should like to state that when I was on the other side standing right next to a dead SS man who was lying along side the prisoners, Major Berger was there and he also had come over to the other side.

Q Mr. Sommerfeld, I think we have heard enough about this air raid by witnesses. Please talk about the matters that concern yourself.

A I allegedly shot to death two prisoners there with my pistol, as has been stated by prosecution witness,because there was a potato lying there, as has been stated, which one of the prisoners at first, and later on the second one, tried to get. I wouldn't know any reason why I should all of a sudden, having been a normal human being, be called a double murderer. That I don't understand. There was no reason at all for me to go there since I was not in charge of the guards and didn't have anything to do with escaping prisoners, and go there and shoot two human beings who are not able to defend themselves—were just as unable as I was at the time. There is no difference in religion, as far as I am concerned; whether these men were Jewish or not doesn't make any difference.

Q Sommerfeld, did you shoot to death two prisoners in Floss?

A I don't think I answered directly, but I said enough so that everyone can understand that I did not shoot anyone to death.

PRESIDENT: Reporter, go back over the record a short distance where he is talking about shooting prisoners and read it, please.

(Whereupon the reporter read as follows:

"I allegedly shot to death two prisoners there with my pistol—")

PRESIDENT: That is enough. Court will take a half hour recess.

(Whereupon the court recessed at 1500 hours.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If the court please, may the record show all the members of the court are present; all the members of the prosecution are present with the exception of Colonel Denson and Mr. Pinter, who are absent on business of the prosecution; all the defense staff are present; all the accused are present with the exception of Losch, Oswalt, and Lubinski, who are ill and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave.

HERMANN SOMMERFELD, an accused, voluntarily took the stand in his own behalf and continued to make an unsworn statement through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q Mr. Sommerfeld, we talked about the accusations made by prosecution witnesses. Do you have anything further to state about that? I am talking about the accusations made about Floss.

A I should not like to pass up this opportunity to point out to the court that at the time this accusation was made by the prosecution witness, this tremendous accusation when he gave his testimony here before this court, that at that time I was so scared that I was speechless; I couldn't say a word and could not even talk to my defense counsel about it, but merely say a simple "no" because this accusation was of such a nature that it made me speechless at that time. If this was the case in Floss, then the witness has stated that we all got back on the train; so that shows that everyone got back on the train after the air-raid was over - that is to say, all who were still alive. None of the 1,800 prisoners

have noticed anything, nor have all the guards ever seen any such thing and they were standing right close to the train, and not even his fellow prisoner, Mr. Landsberger, saw anything or heard anything about that, and he was the one that accused me also, Mr. Landsberger. This whole peculiar thing goes much further than that. Mr. Landsberger, himself, makes a liar out of his fellow countryman, Mr. Salankiewics. I shall later on prove that.

Q Did you travel again with that same train?

A We traveled on with that same train.

Q Didn't another train arrive because the other one had been shot up so that you drove ahead with the other train?

A No, no other train arrived. The engines had been shot, damaged; instead of the two engines that we had had, the two engines that were broken, there at Floss we received one engine replacement; nothing else was changed.

Q How did the trip continue?

A We left in the evening and arrived in Weiden; in Weiden we were 28 kilometers outside of Weiden on a side track; there we stayed all the next day because we couldn't get an engine.

Q Where did you travel to?

A In the evening we received a new engine and then returned to Weiden. There we had an air-raid and we were supposed to go on that very same evening, but we couldn't go on because the engine had been changed again so that they left only the next morning.

Q Was anything done to avoid air-attacks?

A I can verify what other witnesses have already stated; after the first air-raid they put trousers from prisoners on top of the cars to protect them from any further air-raids.

Q Where did you travel to from Weiden?

A We started out in the morning. Most of the time we had been traveling at night because that was the most opportune time, but we had hardly gone 15 kilometers out of Weiden when we had another attack by low-flying aircraft.

Q Did anything unusual happen during this air-raid?

A Only the engine was shot up and damaged.

Q Where did you go to then?

A Nothing else. After we had gotten the replacement we proceeded to Schwarzenfeld.

Q Mr. Sommerfeld, please describe exactly what happened at your arrival in Schwarzenfeld and mainly what you did there.

A In Schwarzenfeld we arrived in the morning at about 8 o'clock - maybe 7:30.

Q What day was that?

A The morning of the nineteenth of April, 1945. When we arrived there the train stopped, the engine was taken away, and we stood there for awhile without an engine. We got off the train, that is to say the following got off the train, the prisoners as well as the SS troops. Of course, a lot of them stayed in their cars where they had been, so I should make an estimation of the people who had gotten off the train, one-tenth or one-twentieth of all the people that were on the train got off.

Q What did you do?

A When we were standing around the SS began to assemble. I was standing with Beblo there and it wasn't long before Beblo was called away. It wasn't far to the place where Berger was standing and Beblo went over there. Upon Beblo's return to me I asked him what the matter was and he said that he had been ordered to take charge of the guards, to distribute the guards, and to take charge of the train; whereupon I went in the village to get washed up.

Q What happened there?

A When I returned I did not go to the station directly, but I went over to the colony. If I had a sketch I could show you much better on it; there were a few houses about 100 meters from the station.

Q What happened there?

A When I went along the tracks, when I was going towards the colony, that is to say about 200 meters that I went along the tracks, I found a factory there and that is when the air-raid started. The planes came diving down and I took cover behind the wall of the factory. It was all a matter of seconds. I was able to observe from there that everybody was streaming out of the train just as it had happened in Floss. It was a repetition of the incident in Floss. The planes circled the train, then took over to one side. That minute I used to run towards the settlement houses which were farther down. I had not reached the houses yet when the planes returned; one came sweeping down alongside the train, firing once this way, once that way; and that happened two more times - it could have been about four times that the flyers flew along the train. After the air-raid I did not wash myself; I did not have any coffee; I immediately returned to the train which was about 300 meters down. When I returned those 300 meters down to the train, I saw dead and wounded people lying all alongside of the train. I was in a position to look over about half the length of the train. I saw the dead people lying there and the wounded as well, right next to the train, and others two meters away; and there was a hedge to the right-hand side; down to this hedge were all wounded and dead. There was some talk about a meadow; I have seen few bodies on this meadow, not many, but a few of them.

COLONEL WILSON: May it please the court, the defense requests permission to remove the accused Skierka, No. 46, from the dock for consultation.

PRESIDENT: Request granted. Proceed, Doctor.

QUESTIONS BY DOCTOR WACKER:

Q What happened to these dead and wounded?

A According to the position of the dead and wounded, the flyers - the planes - had come down this way and had opened fire on the train. The prisoners came out the opposite direction; they streamed out of the train. That is not to say that all of them did; a lot of them stayed behind in the cars. However, as they came out of the train, the deadly bullets reached them and would kill a man here or wound a man over here, so that they fell as they walked, as they were trying to get cover.

Q What happened to the dead and wounded?

A What happened to the wounded? They stayed there and were bandaged right there where they were, that is to say, by a Jewish doctor and a Jewish medic. There was also a German student helping to bandage them - I don't know his name - he was with this same group, the Jewish doctor and Jewish medic. This SS student also bandaged.

Q Did you have anything to do with the taking care of the dead and wounded?

A Yes, I had something to do with it and I can mention two cases especially. When I returned to the train there was a severely wounded prisoner lying there on the ground along the path which I was taking. His lower stomach and his thighs were severely wounded, everything was open, and the blood ran out. This prisoner asked me to draw my pistol and shoot him to death because he couldn't stand the pain any more. My answer was - whether anyone here before this court believes it or not - that I would never draw my pistol to shoot anyone, and I said to him, "You are in so much misery right now, what should I do and go and shoot you. That I will never do." So, I went over to get the Jewish doctor and I brought him over-and if I knew his address I would bring him here to testify - and had him take care of the severely wounded man first.

There was also the Jewish medic who had been standing with the group. As a matter of fact, I gave some cigarettes to the man and if I knew this man's address, I would also have called him. Then the wounded SS man came; he was Beblo's orderly; he had been wounded in the head. This man was in the car during the air-raid; he had been in the car in which the transport leader was; this car was full of holes. He had evidently tried to pick up something for Beblo - whatever it was I don't know - and had been in the car. He came when I was standing there with this wounded prisoner; he was bleeding and we found out later that the wounds weren't as severe as they looked. For this man I also called the Jewish doctor. At first I washed off his blood and in the meantime the Jewish doctor had arrived and also bandaged him. And I also saw in the vicinity that people were bandaging others, people who weren't even medics, but they made it their business to bandage the others - maybe because they had some skill in doing it. Later on, after this - and this had taken quite some time - I was called to Major Berger in the station hotel.

Q What happened there?

A And that is the reason why I don't know what happened to the wounded. I went there first and after I had returned, the wounded had been put aside and I heard from them that they were to be taken to the village into a building there. When I came to Berger, Beblo by the way was there also, he told me that he was going to divide the column, divide them up into prisoners capable of marching and those who were incapable of marching. Berger then put me in charge of the foot march, while he placed Beblo in charge of the prisoners who would stay behind.

Q Was that an order?

A Yes, yes, that was an order.

Q How did you receive that order?

MR. HALL: Just one moment please. May I have the record read back at that last point?

(Whereupon the reporter read as follows:

"Answer: And that is the reason why I don't know what happened to the wounded. I went there first and after I had returned, the wounded had been put aside and I heard from them that they were to be taken to the village into a building there. When I came to Berger, Beblo by the way was there also, he told me that he was going to divide the column, divide them up into prisoners capable of marching and those who were incapable of marching. Berger then put me in charge of the foot march, while he placed Beblo in charge of the prisoners who would stay behind.

"Question: Was that an order?

"Answer: Yes, yes, that was an order.

"Question: How did you receive that order?")

A . That was the short order he gave us first; later on then he said, "Other orders will follow later."

Q What followed?

A With that we were dismissed. I returned to the house to finally wash and have a cup of coffee. When I walked back to the settlement I saw that the dead prisoners who had been lying over the tracks, over the platform, alongside the train, had been put in one row, one next to the other, on the side. That is all I know about the dead. I just saw them lying there. When I went to the house I had these people get me some hot coffee because we didn't get any warm food and that was after reaching the house up there. Then later on I returned to Berger again. I had heard that Berger had not been able to get any kind of vehicle for his family and that he didn't know what to do. When I got there he told me the facts and then he told me that the sergeant from the motor pool had been there in the morning and he asked me whether I would drive

over to the motor pool and find out if they could not give us a vehicle.

Q Mr. Sommerfeld, be concise. Did you get the vehicle?

A The officer rejected it. I returned to Berger then; I was also feeling sorry for the children and I returned to my quarters. While I was walking over to my quarters I saw that part of the dead had been taken away by that time, already.

Q Mr. Sommerfeld, you stated before that other orders followed. Did any of those orders follow?

A Just a second, Doctor, I will get there. I was hardly at home when I was recalled to Berger. When I got there a written order was read to me and was handed over to me.

Q What did the order read? How did the order read?

A In this order it said that the transport would be divided; that I had to lead the prisoners capable of marching and Bebla those incapable; furthermore, it said that no one was to be shot to death during these transports; it furthermore said that mistreatments should be avoided and that those who could not continue marching should be handed over to the burgermeisters on the way, against receipt. With this order in my pocket I returned to my quarters in the settlement and sent someone back to have the SS form there in formation.

Q What happened then?

A The SS fell in in front of the inn in which Major Berger was.

Q What did you do then?

A Then I selected non-commissioned officers and distributed them.

Q What did you tell the guards in formation?

A After I picked out the non-commissioned officers, that is to say five technical sergeants and one sergeant, I selected more sergeants for the group and the other guards were standing around in a circlelike

formation, and at that time I did not say anything. Then I read the written order. I added the following to this written order: "The leaders of the columns are responsible to me for everything that happens during this march." I gave the order in order to avoid any kind of casualties through air attacks. That is why I didn't have the columns march all at once, but with ten minutes' distance - that is just an explanation to the court why I did it - because the column was three to three and a half kilometers long, and that way I lost the oversight over the blocks.

Q Why did you not keep the oversight over the whole column? Why did you designate that the column leaders themselves would be responsible?

A That would be a bad thing for me to do, to tell this court that I was trying to push my responsibility to the lower ranks. If a German officer tries to push his responsibility on to a subordinate, he is not worthy of being a German officer. Such a thing doesn't go with me.

Q For what reason did you add this additional order to the original one?

A I wanted to hear in detail about every little thing that happened so that I could hear the persons in question and could take my steps accordingly. You see, giving orders is very easy, but the officer who is in charge also must see to it that his orders are being carried out.

Q What did you do after this order had been given to the non-commissioned officers and troops?

A I then said the distribution will be at 7 o'clock, departure 8 o'clock.

Q How did you detail them at 7 o'clock?

A Then I dismissed all non-commissioned officers and troops so that they could get their bags ready.

Q What happened then?

A At 7 o'clock at night - Beblo was present also - I started to count off the prisoners capable of marching.

Q Where did that happen?

A The head count was done right next to the railroad tracks. The formation was about 300 meters further down. I always sent five men down with two guards and the guards always returned; that's the way it went, back and forth.

Q How many prisoners did you put into one column?

A Each column had 200 prisoners.

Q How many columns were there?

A I had five columns with 200 each and one with 100. I have to add something here so that you won't get the wrong picture. Whenever the column formations were formed, the non-commissioned officers would always send back ten or fifteen men who were not in a good physical condition; they had been standing straight when the head count was made to give the appearance of being strong, but they later on found out that these men were physically in very bad shape.

Q What happened to those prisoners who had been sent back in this manner?

A Beblo stood nearby; they were handed over to him immediately. They were detailed to those who were not capable of marching. Many times the reason was that these people tried to avoid to get into any more air-raid attacks. I can understand that because I know what an air attack is like. There were many also who had known each other in the camp, perhaps, and wanted to stay together; instead of the man who was capable of marching staying with the one who was not capable of doing so, they did the other way around; the one who was incapable of marching would stay with the one who was capable of doing it.

Q Mr. Sommerfeld, what did Beblo do with the incapacitated prisoners?

A They were put into the cars.

Q What cars?

A Into our train, the one that was standing there, out of which the prisoners had come.

Q Do you know what Beblo had in mind with these prisoners?

A All I heard was that he was to take them back by train, that he was to contact some railroad official, and that he was supposed to take them back some place by train - I don't know the name any more.

Q What happened after you had distributed the columns?

A Whenever the column was formed, the 200 men had been formed, they were ready and they were marched off; then the next one would come, 200 men had been counted, they were ready, and they would march off until all of the 11 columns were ready to start the march and were in formation in the village.

Q Mr. Sommerfeld, you just talked about 11 columns. Was that not a misunderstanding?

A That is an obvious misunderstanding. I am talking about 1,100 men and I am saying 11 columns - six columns.

Q Please explain again how many columns there were and how many men in each column.

A Five columns with 200 men each and one column with 100 men; 1,100 men altogether. The number is not quite correct because, as I have said before, they always sent some of the prisoners back again.

Q Did you give any other order at this spot here near the station?

A No, I didn't give any other order there because I was standing right next to the railroad tracks and the columns were 300 meters down. I never went to the spot where the columns were and I never gave that order, as has been testified, because I never went down to the spot where the columns stood.

Q With which column did you leave Schwarzenfeld?

A I marched behind the last column.

Q What day did the march commence in Schwarzenfeld?

A The nineteenth day of the fourth month of the year 1945, 8 o'clock in the evening.

Q Did you take any precautions in case of prisoners being not capable of continuing to march?

MR. BERKOWITZ: Object as leading.

PRESIDENT: Objection sustained.

Q Where did you march to?

A We went in the direction of Kemnath.

DOCTOR WACKER: I ask that this diagram with the heading, "Marching Road", be marked as Defense Exhibit No. 66 for identification.

(The document referred to was marked Defense Exhibit 66 for identification.)

Q Mr. Sommerfeld, I hand you a document which has just been marked Defense Exhibit 66 for identification and ask you what that is.

A That is my route of march which I made from Schwarzenfeld to Stamsried in two separate marches.

Q Who drew this sketch?

A I, myself.

Q Did you have a map to go by?

A This isn't made according to scale, but merely as a free sketch.

Q What do you see on this sketch?

A On this sketch you see the first march from Schwarzenfeld to Kemnath.

Q How is this march marked on the sketch?

A It has been marked with pencil dots. All of this I have explained on the bottom - the meaning.

Q What else is shown on this sketch?

A You can see where we stayed the first night; furthermore, where we stayed the second night and where we formed our formation the next day, about 5 o'clock, to commence the march again. Outside of that, this sketch shows the march of Beblo's column.

Q What does this "E" here mean (indicating sketch)?

A Food distribution.

Q What does "P" mean?

A That is supposed to be a small flag; that means camping place, Column Beblo.

Q What does this point here mean (indicating on sketch)?

A That is where I started to go ahead of the column in the second march.

Q What does this green circle represent?

A That is where three columns were quartered before reaching Stamsried.

Q And what does the big green dot mean?

A Deactivation on the twenty-third of April, 1945.

Q What do two green crosses represent?

A You better start here (indicating), Doctor.

DOCTOR WACKER: I withdraw the question.

Q What do three black X's represent?

A These three X's in pencil represent the camping place after the first march.

PRESIDENT: Doctor, are you planning to put this particular document in evidence before the court?

DOCTOR WACKER: Not as evidence, but just to make the explanation easier.

PRESIDENT: Well, the court is satisfied that it has been properly identified, Doctor. Now, this witness is testifying from that

particular document. Are you going to have him testify any further from the document? If so, the court feels that it should be entered into evidence.

DOCTOR WACKER: Yes. Then I shall offer it as evidence. I am offering to the court Defense Exhibit 66, marked for identification.

PRESIDENT: Any objection on the part of the prosecution?

MR. BERKOWITZ: No objection, sir.

PRESIDENT: Subject to objection on the part of any member, the court will receive this document as Defense Exhibit 66 and give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit 66 for identification was received in evidence as Defense Exhibit 66, is attached hereto, and madea part of the record.)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order. Continue, Doctor.

QUESTIONS BY DOCTOR WACKER:

Q I again hand you Exhibit No. 66. Please explain what the three green X's represent and the two green X's.

A The green crosses represent the camping place on the second night, and here the distance has been designated in kilometers.

Q What does this arrow marked with pencil mean?

A The arrow indicates the direction to Boden.

MR. BERKOWITZ: May I ask the court, sir, that the exhibit be completed, in that an English translation of notations be placed thereon so that we might know what it is about.

PRESIDENT: The court feels that your suggestion is very apropos, Mr. Berkowitz, and directs that that be done.

DOCTOR WACKER: This is a document that is merely here to make it easier for the course of the trial, and not as any proof or evidence.

MR. BERKOWITZ: In that case, sir, I move that if it is not proof or evidence or if it is not material it be withdrawn.

MR. McKAY: If it please the court, we will have an English translation prepared of this and introduce it as 66-A for explanation.

PRESIDENT: (to Mr. Berkowitz) Is that in the form of a suggestion?

MR. BERKOWITZ: No, sir. That is in the form of a motion. If this is not material and is not evidence, I ask that it be striken from the record.

PRESIDENT: The motion is denied. The court feels that this will assist the court in considering the evidence at hand.

DOCTOR WACKER: May I ask for a recess of five minutes; then the English words can be added right away.

PRESIDENT: That can be done after the court adjourns, Doctor.

DOCTOR WACKER: All right.

MR. BERKOWITZ: I don't think it would be necessary to have a 66-A; just have the English words put alongside the designation.

PRESIDENT: Well, that is a matter for the defense to decide, Mr. Berkowitz.

MR. BERKOWITZ: Yes, sir.

PRESIDENT: The main idea is the court desires some explanation; if they desire to make it in the form of an additional exhibit, that is perfectly all right.

QUESTIONS BY DOCTOR WACKER:

Q Mr. Sommerfeld, where did you march to the first evening?

A Behind the village of Kemnath, about 1,000 meters further on down.

Q How far is it from Schwarzenfeld to this point that you have just described?

A Ten kilometers.

Q What did you do there?

A There we stayed in the woods overnight.

Q What do you mean by "we"?

A Everybody, the prisoners, the guards, and I, myself.

Q How long did you stay there?

A We stayed there until evening of the same day.

Q What day was that?

A That was the twentieth.

Q How did you continue?

A On the twentieth I went ahead alone and looked for a new resting place.

Q Did you find it?

A Yes, quite near; it could have been only 1,500 meters further on down, measured by air.

Q Did you move into this new camping place?

A Yes.

Q How long did you stay there?

A We stayed there overnight from the twentieth until the twenty-first, and the next day until 5 o'clock that night; that is to say, the same day, the twenty-first, until 5 o'clock.

Q Did anything unusual happen during that day?

A No, not the second day, but the first day.

Q What was that?

A The morning of the twentieth we again had an air-raid.

Q Did you have any dead and wounded?

A Not a single one. The morning of the twentieth I called all the non-commissioned officers and prohibited for them to light any fires because this road ran about parallel to the railroad tracks and

there was quite some air activity along these tracks. I was afraid that whenever the smoke would come out of the woods, the flyers would mistakenly take it for a Wehrmacht camping place; for that reason the prohibition of fires. And that happened. Column 5 - my column - or nearby there was a fire burning. I only found out about that later. My anticipation was right. Low-flying aircraft came and at first fired at the edge of the woods, then later on through a barrel with phosphorus. When I got there, a place of about the size of this room was afire; that is not to say the high trees, but the bushes, the underbrush. After this air-raid I immediately went over to this column.

Q Who was in charge of this column?

A I only heard about this name here; I didn't know the name; his name is Schmidt, Column 5.

Q And what did you do when you were with Column Schmidt?

A I told Schmidt my opinion. I told Schmidt off as a soldier deserves it. I told him, " You are not worthy of being a non-commissioned officer. I can place a soldier in charge and he can do his job better. A few hours ago I gave orders that no fires would be lighted, and now I find out that a fire has been lighted here with your column."

Q I believe, Mr. Sommerfeld, this point has been clarified by the witnesses. Please continue now about the march.

A Doctor, I want to say one more thing, but briefly.

PRESIDENT: Wait a minute. Make it brief.

A (cont'd): I reported Schmidt to Major Berger because the acts of this man were irresponsible. That is an example. Orders are being given and I am responsible that these orders are being carried. I made this man account for his acts. Now, you can go ahead.

Q Please continue now from the point where you left off where you had rested the twenty-first.

A On the twentieth when we reached the new camping place, I sent an orderly to Neunburg to Major Berger to get more orders from Major Berger for my marching column.

Q Had you not been told exactly where you had to march to?

A Yes, we had orders, but the daily route of march had to be given to me daily.

Q What did you find out from this orderly?

A He did not return the twentieth, but returned the twenty-first early in the morning.

Q And what happened then?

A He brought the report back to me that I personally was to come to Neunburg, that is to say I by myself, not with the prisoners.

Q Did you go to Neunburg then?

A I drove to Neunburg about 10 o'clock in the morning with a bicycle.

Q Did you meet Berger there?

A I met Berger there and there is one thing I have to mention; before reaching Neunburg I saw a lot of dead bodies. I reached the first houses of the town when I saw Beblo, who was standing in front of an inn. Across from him I saw on the square prisoners standing and lying down. When I approached Beblo, I asked him whether he knew where Berger's quarters were, and I also pointed out to him the dead bodies which I had seen before reaching Neunburg. I asked him whether he knew anything about it; Beblo told me that he didn't know anything about it.

Q What did you talk about with Berger?

A The sergeant from Beblo's column led me to Berger's quarters. Having arrived there, I reported to him that nothing new had happened with my column or nothing unusual with the exception of the case Schmidt, which I reported to him.

Q What did you do then?

A He told me then that the column, prisoners and guards, would receive warm food in the evening in Neunburg; he also designated how far the column on foot should march the next day. We also talked about other things - things that don't belong here - about quarters, where his quarters were, and that I had been in the woods and that I had slept there. Those were things of no importance and they don't belong here.

PRESIDENT: Doctor Wacker, Mr. Berkowitz, I'd like to see you.

(Whereupon an off the record discussion was had between the president and counsel.)

PRESIDENT: The court will adjourn until 9 o'clock tomorrow morning.

(Whereupon at 1700 hours the court adjourned until 0900 hours, 6 December 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary / *Intermediate Military Court to be held / *General

Die Verhandlung wird vor dem *Einfachen / *Mittleren Militärgerichte / *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG PAGES 7704 - 7775, INCL.

First Duplicate Copy

Case No. .....

*Summary
*Intermediate Military Court.
*General

Place DACHAU, GERMANY

Date 6 DECEMBER 194 6

Members of Court:

SOMMERFELD, HERMANN (Cont'd.)

DAMBECK, JOHANN

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

0900 hours to 1700 hours

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES VERSUS FRIEDRICH BECKER, ET AL

By

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

6 December 1946 - 0900 hours to 1700 hours - PAGES 7704 - 7775, INCL.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
SOMMERFELD, HERMANN	7705	7725	7752 7762		7753 7764 7766
DAMBECK, JOHANN	7770	7774			

EXHIBITS

NUMBER	DESCRIPTION	MARKED	OFFERED
D-66			7705

Ta 657 Floss
12/6/46 PLS mtw-1

Camp Dachau, Germany,
6 December 1946.

MORNING SESSION

(Whereupon the court reconvened at 0900 hours)

PRESIDENT: The court will come to order.

PROSECUTION: Let the record show, may it please the court, that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr McKay who is absent on business of the accused; all the accused are present with the exception of Lipinski, Losch, Oswalt, Eisbusch, Mussfeldt, and Wurst, who are ill and whose interests a e being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of direct examination, Dr Wacker.

HERMANN SOMMERFELD, an accused, voluntarily took the stand in his own behalf and continued to make the following unsworn statement through an interpreter:

DR WACKER: I now offer to the court Exhibit Number 36 with the English translation.

PRESIDENT: I think this should be 36A.

INTERPRETER: It is on the original. The English translation is on the original document.

PRESIDENT: Is there any objection on the part of the prosecution to the defense presenting Exhibit 66?

PROSECUTION: No objection.

PRESIDENT: Subject to objection of any member of the court, the court will receive in evidence Defense Exhibit Number 66 and give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit 66 for identification was received in evidence as Defense Exhibit 66, is attached hereto, and made a part of the record)

DIRECT EXAMINATION

QUESTIONS BY DR FACKEN:

Q Mr Sommerfeld, you told us yesterday that you went to Neunburg and had a conversation there with Mr Berger. Please continue.

A As I stated yesterday, when I arrived there Berger told me we were to get warm food in the evening and he also designated the marching distance for the march and the destination we would reach the next day. I said after we finished this conversation we conversed about other matters which are of no importance, however I would like to mention this one thing. It was the following: Mr Berger asked me if I had a bicycle and if so to send him one.

Q Mr Sommerfeld, where were the prisoners of your marching column while you had this conversation with Major Berger?

A The prisoners were seven kilometers away from Neunburg at their last camping place.

Q Did you advise the marching columns to wait until your return?

A Yes, I wanted to pick up orders first.

Q Now, continue.

A I also expressed my surprise to Berger about Beblo's presence and I asked, "How does he get here to Neunburg"?

Q Did you personally see Beblo?

A I have stated already that I saw Beblo in front of an Inn right at the beginning of the town and the prisoners were right across from him.

Q Mr Sommerfeld, please wait until my question. Were those sick prisoners or other prisoners?

MR BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR WACKER:

Q Did you find out how Beblo got to Neunburg?

A Yes, that is what I wanted to talk about. I had not finished. Berger told me that Beblo had arrived with part of his prisoners on trucks in Neunburg because nothing became of the railroad trip to N A B E R G or N A H B E R G, I don't know exactly how to spell it.

Q What did you do after you had the conversation with Berger?

A I stayed with Berger there about two hours and then I returned.

Q Where? Returned where?

A I returned to my column.

Q What did you do there?

A When I passed the square again, the one on which I had seen Beblo and the prisoners, the prisoners had gone. Beblo was not there any more either. The only ones there were some SS men who were standing alongside the street. I drove out of town and right there some planes circled the town of Neunburg. They also came down low but then they flew away in the direction of Schwarzenfeld. Then I passed this spot which I have marked on this document on this sketch about one thousand meters from Neunburg and about eighty prisoners were in the woods there. I got off and asked the guards what kind of prisoners those were. The guards told me that those were prisoners from Beblo's column. I got on my bicycle again but now I have to say that I assumed that the prisoners that I had seen on the town square were included in the woods because I estimate that the number of those I saw in town were about 30.

Q In what kind of condition were these prisoners?

A They were lying around resting. Others were standing up, but this was Beblo's column and Beblo had all the prisoners who were incapable of marching, some of them may have been capable of marching, they were standing around, but the greater part of them were not.

Q What did you do then?

A I drove down the road and I again passed the spot where I had seen the dead ones. Nothing could be seen anymore there where the bodies had been seen alongside the road.

(Sommerfeld-Direct)

Q Please Mr Sommerfeld, what day was that?

A The 21st at noontime.

Q Please continue what happened then.

A But when I drove by this spot to one side of the road past the spot where I had seen the bodies, then I took a look in the ditch and I saw they were lying in the ditch covered up partly so that they could not be detected from the road.

Q What did you do then?

A Then I was interested from which column these dead bodies could be. Driving to my column I passed several small villages and inquired of the civilian population there whether they had seen any columns pass through the villages.

Q What did you find out?

A These people could state that several columns had passed through there but I was not able to find out who the leader of the column was or whose columns those were.

Q Were you able to find out whether those were marching columns or whether they were on vehicles?

A I inquired deliberately of the civilian population and found that those were marching columns going by on foot. I would like to state here that when I was with Berger I forgot to tell him about it. When I passed the spot I told myself, "You forgot to report to Berger what you had seen." I was then determined to make a report to Berger in the evening whenever I would arrive with my marching columns.

(Sommerfeld-Direct)

Q What did you do then?

A I reached my column and first called all column leaders and I informed them about the orders which I had received from Major Berger. I announced that prisoners as well as guards would get warm food in the evening in Neunburg. I announced the route which would be taken the next day on the march and also the destination.

Q Mr Sommerfeld, after you had returned to your column, did you receive a report that anything unusual had happened during your absence?

A A report was made to me that no unusual things had happened during my absence.

Q When did you leave?

A I called the formation at five o'clock in the afternoon. We had hardly started out and marched for fifteen minutes when a heavy thunder storm broke loose and we got wet. This unforseen event caused me to go ahead and drive to Neunburg to see to it that we would get our food as fast as possible so that we would not have to stand around the streets wet and freezing.

Q When did you arrive in Neunburg again?

A I arrived there about 6:15 respectively 6:30 in the evening.

Q Mr Sommerfeld, please state again what day that was.

A That was the 21st of April, 1945.

Q What did you do when you again arrived in Neunburg?

A This SS Sergeant who has been here by the name of Klinkert was standing on the street and he showed me where the food would be issued.

Q When did the prisoners arrive?

A I sent Klinkert away to get some food while I personally waited for the prisoners. They arrived at seven o'clock in the evening. I am absolutely certain about the time.

Q Did the prisoners receive food?

A Yes, as a matter of fact the whole thing went very fast because I prepared it. As they arrived in columns of five they went through the chow lines and that is the way it was.

Q When were you able to march on?

A I would like to mention here when my prisoners received their food a detail of SS men from the column of Beblo arrived and they also wanted food. I said that wasn't possible because I was continuing my march and I asked them if they also wanted to march away. These men then told me that they would stay here and not march away that day.

Q When did you leave with your prisoners?

A After three columns had been sent, it could have been the fourth also, I went to the head of the whole column in the east of Neunburg where they were to assemble again.

Q Mr Sommerfeld, please tell the court how far it was from this camping place to Neunburg.

(Sommerfeld-Direct)

Q Since everybody was wet, the prisoners as well as the guards, I decided I would go to the head of the column and see to it that the prisoners would not have to spend the night in the open air again as they had the first two nights.

Q Where did you go?

A I went ahead with my bicycle to Stamsreid.

Q What did the prisoners do?

A I left orders that the march would continue as it had been the previous day with the same distance between columns and when I left there it was about nine o'clock.

Q And where were the prisoners supposed to march to?

A The destination had been announced to each column leader that it would be Stamsried.

Q What did you do when you arrived in Stamsried with your bicycle?

A I went to the first village where I saw a car standing across the street.

Q What village?

A The first village past Neunburg in the direction of Stamsried. When I--actually this little matter is of no importance so far as the little village is concerned, but when I was standing there to have the car across the street removed, a bulldozer came which could not pass either. I asked the driver of this car where he was going to go to. He told me that he also was going to Stamsried. I put my bicycle on the trailer and I was sitting on the

fender of this bulldozer because I did not have any room inside. It was filled up.

Q What did you do when you arrived in Stamsried, Mr Sommerfeld?

A It was very dark that night. Outside of that it was still raining, and when I arrived in Stamsried the first thing I did was to look up the burgomeister.

Q What time did you arrive in Stamsried?

A It was about 11:00 or 11:30 at night.

Q Did you get in touch with the burgomeister?

A No, in the center of the village there was a larger house, a bakery, and I knocked on the window there. The door was opened leading into the shop and I asked the man for the burgomeister.

Q Mr Sommerfeld, who was the man who opened the shop for you?

A Bakery master, Betz, I believe was his name.

Q Was that the same baker who appeared here as a witness?

A Yes.

Q What did you ask Betz?

A I asked him for the burgomeister and I also told him I wanted to talk to the burgomeister.

Q What did you do then?

A But I was then told that a local command post had been established in his house and that the commander lived in his house on the first floor.

(Sommerfeld-Direct)

Q What did you do then?

A I then asked Betz whether he couldn't show me where the local commander lived and respectively lead me there. Betz at first rejected that because he had strict orders not to let anyone upstairs at night. I did not let him push me away. I said to Betz, "Lead me there. Everything else will be my responsibility".

Q Mr Sommerfeld, we know about the testimony given by Betz. Please tell in general what the conditions were. Did you talk to the local commander?

A I went to the local commander after I had knocked and found that he was in bed already.

Q Mr Sommerfeld, what was the content of your conversation that you had with the local commander?

A I told the commander that I needed space very badly to quarter my prisoners. The commander rejected that immediately. He said the village had been occupied by 900 English prisoners of war. Outside of that he said that he had taken over only eight hours ago and that he was not oriented in the village so that he could tell me anything about quarters.

Q Did he give you any quarters?

A No, he did not give me quarters, and then after he had rejected it I asked him if he would leave it up to me to find quarters in the village.

Q Did you do it?

A I did that. I went back to the entrance of the

village from where I had come and at that place there were several barns. I looked for the owner. I did not ask him if I could have his barn but I told him, "Your barn will be taken over immediately".

LT COLONEL WILSON: May it please the court, the defense requests permission to withdraw Becker, Number 1 for consultation.

PRESIDENT: Permission is granted.

QUESTIONS BY DR WACHER:

Q Sommerfeld, what time was it when you requested this barn?

A It was midnight, twelve o'clock.

Q Did the prisoners arrive then?

A And there were some barns which were not locked and I took them anyway. I went back to the farmhouse from where I had come and up to the upper floor to stay with a refugee family from Silesia. Mr Betz came upstairs with me himself and I sat there in the kitchen on a chair.

Q When did the prisoners arrive in Stamsried?

A I sat on this chair until three o'clock in the morning, that is to say, completely naked with a blanket around me.

Q Mr Sommerfeld, when did the prisoners arrive in Stamsried?

A Three o'clock. I sat there for three hours.

Q Where did the prisoners enter the village?

A Non commissioned officers had gone ahead and they yelled loudly in front of this house because it had a sign

in front of it, Command Post.

Q What did you do?

A I borrowed civilian clothes because my uniform was in the bakery and I also had civilian shoes on and I went down immediately in the bakery. My uniform was completely wet.

Q What did you do then?

A I quartered the prisoners in this barn. At first one column arrived and shortly thereafter the second column arrived also. I had hardly quartered the first column when the second column arrived.

Q How many barns did you have at your disposal altogether?

A Four barns.

Q How many prisoners could you quarter in each barn?

A In one barn, it was the largest one there, it was the one which belonged to the man I had spoken to. It could easily quarter 200 men.

Q And the other barns?

A Approximately 150 in the other barns.

Q How far were these barns distant from each other?

A They were at the exit of the village right next to one another.

Q How did the prisoners arrive there, in what sections in Stamsried?

A Column 6 arrived first and then column 4.

Q With how many prisoners did column 6 arrive?

(Sommerfeld-Direct)

A The columns arrived with their full strength, column 6, 100 men, column 4, 200 men. Those are round numbers because in Schwarzenfeld some prisoners had been sent back from the column.

Q How many prisoners arrived altogether in the column?

A I waited at this spot better than one hour until four o'clock in the morning until the prisoners had been quartered but no other prisoners arrived.

Q How many had arrived then altogether?

A Two columns.

Q With how many prisoners in all?

A As I had said, 200 and 100.

Q What did you do then?

A I went back to my quarters and sat down on the same chair. I couldn't lie down, and waited in this manner until morning.

Q What did you do the next morning?

A I picked up my clothes from the bakery from the oven and they had dried in the meantime and then I took a look around where the guards could be quartered.

Q Mr Sommerfeld, which day was this?

A That was the 22nd of April, 1945, in the morning.

Q What did you do then?

A I went to the local commander. It could have been 7:30 or 8:00 o'clock, and I reported to him that I had

quartered the prisoners. He was satisfied that I had found space and that he wouldn't have to trouble with it. I then asked the commander whether he could give me any quarters for the guards for that night the guards didn't get any rest at all, they partly slept in the barns and others had to stand guard.

Q What did you do then this morning?

A I received quarters in a shoemaker's shop.

Q Do you know the name of this shoemaker?

A I don't know the name.

Q Is that the shoemaker that you have named to me as a witness?

A Yes.

Q Go ahead.

A The guards were quartered near the barns where the prisoners had been quartered with farmers. I only had one thing that bothered me and that was where the remaining three columns had been. When I was in my quarters and talked about this with Klinkert an orderly came, a messenger. He handed me a piece of paper, a written report that one of the columns had made.

Q Is that the document about which the witness Klinkert testified?

A Yes. I said to Klinkert, "You see this is the solution of this riddle, read it yourself".

Q What did it say in this report?

A It read that the column had lost its way in the darkness and that they had quartered themselves in some barns before reaching Stamerfeld.

(Sommerfeld-direct)

Q Did you also hear from the other two columns?

A Later on the reports from the other two columns arrived also. These reports also read that nothing unusual had happened, that they had looked for food for the prisoners in the villages and that they had received it.

Q Mr Sommerfeld, please tell the court what you did during the whole 22nd of April, and tell it without omitting anything.

A I sent this report back with this same messenger and wrote on the back of it, "Today no march, these prisoners are to dry their clothing first", and that everybody would have to be in Stamsried the next morning at nine o'clock. After I had returned these orders with the messenger I went ahead to get food for the prisoners who were quartered in Stamsried and I picked up potatoes for one thing. I picked up coffee and three kettles and I can name the people from whom I got the vessels, and I had them make coffee and potatoes so that after this wet night the people could get something warm in them. They cooked all day long and as one vessel had been cooked it was issued immediately to the prisoners. I, myself, convinced myself of the fact that the meal was satisfactory and while the food was distributed several times during the day I went over there from my quarters because it was not very far away from my quarters to where the prisoners were.

Q Mr Sommerfeld, so far as I know there is no accusation made against you so far as the 22nd of April is concerned, however I want you to tell exactly what happened during the 22nd of April.

(Sommerfeld-Direct)

A Doctor, I am just explaining this. As I just said, I looked for food et cetera, and I won't repeat what I just stated, but I should not like to omit the following whether it seems credible or not. The prisoners who received their food, I asked them whether they were satisfied and not one but 30 to 40 voices answered, "Thank you, thank you, Lieutenant". I would like today to have those people who shouted at that time for witnesses for me.

Q Mr Sommerfeld, please describe to the court what you did on the 22nd of April, 1945.

A The following thing happened: on that day all prisoners of the Flossenburg Concentration Camp marched through Stamsried. From morning until night thousands and thousands of prisoners, one column after the other.

Q Mr Sommerfeld I want to know what you did the 22nd of April, 1945 throughout the whole day.

A As I said I saw all these columns marching through and as a matter of fact talked to Skierka who marched through there about 9:30.

Q Mr Sommerfeld, now please answer my question. What did you do on the 22nd of April between the hours of nine and ten?

A I have to tell you then, I have to get for you then, the butcher shop. I was there. I have to get you the local farmer's leader because from him I got the potatoes; I have to get you the other farmer by the name of Bauer where the prisoners were quartered. I have to get you my quarters for I was there. That is exactly what we have to know.

(Sommerfeld-Direct)

Q That is exactly what you have to tell the court. What did you do from ten to twelve?

PRESIDENT: The court will take a half hour recess.

(Whereupon at 1000 hours the court recessed until 1030 hours)

Ta 658 DF
12-6-46
Page 1
Floss.

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all the members of the court are present; all the members of the prosecution are present, with the exception of Mr. Denson and Mr. Pinter, who are absent on business of the prosecution; all the members of the defense are present, with the exception of Dr. Engelhorn, who is absent on business of the accused; all the accused are present, with the exception of Lipinski, Losch, Oswalt, Fisbusch, Mussfeldt, Wurst and Matake, who are ill, and Friedrich Becker, No. 1, who is conferring with counsel, the interests of the absent accused being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the room.

PRESIDENT: The court would like to see the senior prosecutor present and defense counsel. The court will take a short recess in place.

(Whereupon the court recessed in place at 1045 hours and reconvened at 1050 hours.)

PRESIDENT: Court will come to order. Now, Dr. Wacker, the court feels that this particular witness is wasting too much time on extraneous matter. It is perfectly true that the court has generally followed the policy when an accused takes the stand of allowing him considerable freedom about the matters put before the court, but, at the same time, the court suggests that you get this particular accused down to the main issue so that we can expedite his testimony.

DR. WACKER: I can expedite this matter by asking that no objection be raised against my next two or three questions perhaps.

PRESIDENT: Doctor, that remains to be seen what your questions are. All right, proceed.

HERMANN SOMMERFELD, an accused, resumed the stand in his own behalf and continued to make the following unsworn statement through an interpreter:

(Sommerfeld-Direct)

DIRECT EXAMINATION (Continued)

QUESTIONS BY DR. WACKER:

Q Sommerfeld, do you remember the testimony of a witness Szlamkiewicz?

A Yes.

Q Do you remember that Szlamkiewicz spoke about the 22 of April 1945 on two occasions?

A Yes.

Q For this reason please give us an exact description of what you did all day long on the 22nd of April 1945.

A I stayed the whole day in Stamsried and I beg that this witness from Stamsried be called here to prove this; that is the man with whom we had our quarters all day.

Q Sommerfeld, please tell us what you did on this day in Stamsried.

A I have already touched upon a number of points, things which I did on that day. And in the afternoon I sent Klinkert to Roding to Mr. Berger so that he would report in my behalf that everything was all right where I was and so that he could pick up new orders.

Q Where did you stay during the time when Klinkert was away?

A I stayed in my quarters and in between I would go to the prisoners.

Q What did you do when Klinkert came back?

A Klinkert came back with the information that he hadn't met Mr. Berger.

Q What time did Klinkert come back?

A It was already evening. It could have been seven or eight o'clock.

Q What did you do then after Klinkert had come back?

A I lay down to take a rest because I hadn't slept all night.

Q Did you spend the night between the 22nd and 23rd of April in Stamsried?

A Yes, in my quarters in the cobbler shop; in the shoe store.

Q Did you ever leave Stamsried on the 22nd of April 1945?

A No.

Q What happened in the morning of the 23rd of April?

A The 23rd of April in the morning at 9 o'clock the prisoners gathered in the middle of the village.

Q What happened then?

A Two columns were there at Stamsried and we marched off with these columns.

Q What happened then?

A The other three columns were outside the town, hadn't yet arrived, and I left Klinkert standing there at the place where we had gathered to show them the way.

Q What happened then after you passed Stamsried?

A We hadn't marched one thousand meters off of Stamsried yet and we hadn't reached the forest yet, but as we got to the forest we heard the rolling of tanks coming into Stamsried and the people were shooting at the tanks.

Q What happened to the prisoners?

A I surrendered the prisoners according to my orders, and I surrendered them to No. 359, who was supposed to make this surrender.

Q What do you mean by this No. 359?

A That was somebody from the camp police; I don't know his name.

Q To whom did you surrender the prisoners?

A I surrendered them to this man with this number and he was supposed to turn them over to the American troops according to order; I released the guards, who were about twenty men, and they marched away; and they went off in a southerly direction and I went on by myself in an easterly direction.

Q Where did you go?

A According to orders we were supposed to immediately join a new fighting unit but I told the guards that they could do whatever they wanted about that and that I, myself, had no intention of joining any other fighting unit because the fight was hopeless as far as I was concerned.

Q Did you go back home?

A Well, I went off in an easterly direction and on my way I saw hundreds of prisoners and they were going in an easterly direction to the next village and I went all by myself throughout these prisoners. In the next village I saw that the prisoners were there; they stayed back and I went on alone and I intended to go home to my family.

Q Did you actually reach home?

A On the 23rd I left there and on the 28th I went through the German-American lines near the town of Bernau and I got through there and went to my family. I immediately reported to the commanding occupational authority of the Americans and he went with me to the main man of the town and took an interpreter along. I reported to this American that I was such and such a person; that I was First Lieutenant of the SS Sommerfeld; and that I had just come from this transport; and this American sent me back to my family and told me I should go to my wife.

Q Mr. Sommerfeld, when were you eventually arrested?

A As a result of this I went fourteen days with my family and then at the end of that time, on the basis of an order from General Eisenhower I was arrested again.

Q Sommerfeld, please express your opinion now as to the testimony of the witnesses Landsberger and Szlarkiewics.

A I wanted to go into that in the form of a final statement.

MR. WACKER: No more questions.

PRESIDENT: Cross-examination, Mr. Berkowitz?

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Sommerfeld, on direct-examination a moment ago you said that Salamkiewicz referred to a date during which these offenses by you occurred as the 22nd. Now, I ask you, Mr. Sommerfeld, whether you, yourself, had had any difficulty keeping these dates straight.

A No.

Q Isn't it a matter of fact that in the course of an interrogation by me you, yourself erred in the dates?

A That isn't possible. It is possible, but I stick to what I say.

Q Well, you stick to the dates you gave or you stick to the facts that you made no error in the course of an interrogation by me?

A I am sticking to the dates which I have made known to the court here.

Q Yes, now I ask you did you have any difficulty keeping these dates straight in the course of an interrogation made before the trial by me?

A I never had any trouble.

Q When did you say you arrived at Neunberg?

A I would like to know whether the prosecutor is referring to the time when I, myself, arrived, or when the column arrived?

Q Well, now, let's take another question. You say you sent a runner to Berger at Neunberg in the evening and he came back in the morning. What was the date he came back?

A The 21st, in the morning.

Q Now, didn't you, in the course of an interrogation by me, tell me that that date was the 20th?

A That is possible, but I have thought a lot about that so that I would not tell any statement here which is not the truth.

Q So you found it difficult to remember these dates exactly in the

sequence in which these events took place?

A I would like to call attention to the fact that when Mr. Berkowitz interrogated me I did not give such precisely accurate time estimates because at that time I had no idea that I would ever be brought to court.

Q Well, of course at that time I didn't have any idea, but the question asked is did you have difficulty remembering the exact dates of the occurrences as they happened.

A I have to repeat that at the time of the interrogation I was asked about certain things and I did not have a chance to reflect about them very deeply and I didn't have any idea that I would be brought to the court, and the statements which I am now making are the truth because I have had time to reflect about them.

Q Now, I refer again to the evidence of the witness Szlamkiewicz and I ask you whether he was correctly identified the places through which this column passed?

A As far as I know, Szlamkiewicz mentioned only two or three places here in the testimony, Schwarzenfeld and Neunburg. I don't know of any others.

Q And those places are places through which the column passed?

A Yes.

Q Now, Mr. Sommerfeld, you stated that before you went out on this assignment you had just returned from a commando on the 15th of April. From what place had you returned?

A No, I said the 14th of April.

Q All right, the 14th.

A I had a detail; it lasted for about ten to fourteen days; and it consisted of Greek generals, prisoners of war.

Q Did you ever know Peblo before you went on this transport?

A Yes.

Q Where did you know Beblo?

A I already knew Beblo in Silesia.

Q Did you and Beblo bring a transport of prisoners from Gross Rosen to Flossenburg?

A Yes.

Q And Graeber was in that transport too?

MR. HALL: If it please the court, I have no objection to identifying the activities of this witness and his background in connection with times and places, but I do object with reference to counsel going into the details of those matters which are not germane to the issues before this court.

PRESIDENT: Repeat the question, reporter.

(Whereupon the reporter read the last question.)

PRESIDENT: The objection of the defense counsel, Mr. Hall, is sustained.

Q You stated that the only SS man in the transport that you know was the witness who appeared by the name of Klinkert.

A In this transport? Well, I can go ahead and say that I know Graeber, the accused. That doesn't make any difference.

Q And how did you know Graeber?

A I learned to know Graeber here in Dachau.

Q Didn't Graeber take part in a transport in which you were active?

A Well, if you mean this last transport from the 16th of April then Graeber was on it.

Q And Graeber had also taken part in a former transport in which you were active?

PRESIDENT: Court will be closed.

(Whereupon the court was closed at 1110 hours and reopened at 1145 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all the members of the court are present; all the other personnel who were present at the time of the closing of the court are now present, with the addition of Eisbusch, Hussfeldt, Wurst and Matake, who have returned to the dock.

PRESIDENT: Now, Mr. Prosecutor, the court will permit you to bring in the name of Graeber from the standpoint of credibility of this particular witness, but the court will not permit you to bring in evidence relative to Graeber participating in the last transport or any other transport because that matter was not covered in the direct-examination.

MR. BERKOWITZ: Yes, sir.

CROSS EXAMINATION OF ACCUSED SOMMERFELD (CONTINUED)

QUESTIONS BY MR. BERKOWITZ:

MR. BERKOWITZ: May I have the last question read.

(Whereupon the reporter read the question as follows:

"And Graeber had also taken part in a former transport in which you were active?")

PRESIDENT: The court would like to ask, Mr. Prosecutor, whether not not that question is based upon the credibility of this particular witness?

MR. BERKOWITZ: Yes, he said he knew only one man there, Klinkert.

MR. HALL: I believe there might be some confusion as to which transport Klinkert was involved in in connection with your question.

MR. BERKOWITZ: The statement of the witness was that all the guards were strangers to him with the exception of Klinkert.

MR. HALL: Which transport are you talking about?

MR. BERKOWITZ: The one in question--on the 16th.

MR. HALL: Your question, however, referred merely to a former transport, as I recall.

MR. BERKOWITZ: That is it exactly.

PRESIDENT: Clarify your question, Mr. Berkowitz. The court understands you are referring to the transport of the 16th of April, is that right?

MR. BERKOWITZ: Yes, sir. I will withdraw the question.

PRESIDENT: Proceed.

CROSS EXAMINATION OF ACCUSED SOMMERFELD (CONTINUED)

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Sommerfeld, when you were testifying on direct-examination you stated that the only guard you knew was Klinkert. Isn't it a fact that you knew Graeber, who was also a guard on this transport because he had taken part in an earlier transport with you?

A It is clear that I also knew Graeber, but when I answered this question I understood the question referred to someone I might call as a witness and Klinkert was the only one I could call as a witness; I couldn't call Graeber because he was an accused here.

Q Yes, but didn't you state that of all these guards the only one you knew was Klinkert?

A Yes, of course, that's that I said, certainly.

Q But you also knew Graeber because he had taken part in an earlier transport with you?

A Yes.

Q Now, which car in the train was occupied by Berger?

A It was about in the middle of the train.

Q And which car did you occupy?

A I was the next car, that is, the car in back; his car was ahead of me.

Q Now, what orders did you receive when you left Flossenburg?

A I? Orders? I didn't get any orders there; no kind of special orders of any kind.

Q Did you get any orders at all from Berger?

A No.

Q Did you get any instructions from Berger?

A No, I merely talked to Berger about the fact that since I wasn't assigned to any definite duty that I could take care of the food situation underway, etc. But that wasn't any kind of order.

Q What do you call it?

A A conversation.

Q Well, in the course of this conversation were you told what your duties would be?

A I didn't have any orders.

Q Were you told what your duties would be in the course of this conversation?

A No.

Q What duties did you perform on this transport?

A In my previous interrogation I already stated that I didn't have any special duties.

Q What duties did you perform?

A Well, I just got through saying that I took part in the supervision of the distribution of the food, to see to it that every ody got his rightful ration.

Q Where did you do that?

A At the train.

Q Now, didn't you also assign the prisoners to the various cars?

A Yes, I did that already on the first day; I distributed them to the various cars.

Q Well, who told you to do that?

A I got that order before the transport put itself in motion.

Q Where?

A As I already said in my direct-examination the other day, that was

in the SS square where the SS people were gathered and Berger was there. I went there in the morning and got this order.

Q You got that from Berger?

A Yes.

Q Why did you tell us just a moment ago that you received no orders from Berger in Flossenburg?

A I was asked what kind of orders Berger gave me in Floss.

Q Well, what orders did you get from Berger in Flossenburg?

A Nothing at all at the railroad station in Flossenburg; only in the camp, as I just said.

Q Were you armed when you left Flossenburg?

A Certainly; there isn't any such thing as an officer who isn't armed.

Q What did you carry?

A I carried a pistol.

Q How many guards were on the transport?

A I can only estimate that; perhaps 200 to 250.

Q Were they all SS men?

A Yes, they were SS people who had been quartered down there in the school house who had come from all these different camps.

Q Now, were there some foreign prisoners who were camp police and were also guards?

A There were some among them who were armed. As I said before I saw about four during the trip, and as I already said, I later on turned the people over to this No. 359 and he, in turn, was to surrender the prisoners to the Americans. Other than that there weren't any camp police with me.

Q Now, were all the guards armed?

A Yes, the guards were armed when they left the camp, up to that point of time when the flyers dropped this phosphorus bomb.

PRESIDENT: Court will adjourn until one-thirty this afternoon.

(Whereupon the court recessed at 1200 hours until 1330 hours.)

Ta 659 Givin
12-6-46
1 - Floss

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Doctor Engelhorn, who is absent on business of the accused; and all the accused are present with the exception of Lipinski, Loech, Oswalt, Maurer, and Neye, who are ill, and Friedrich Becker, who is conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses, they will please leave the courtroom.

PRESIDENT: The court directs that all final arguments on the part of the prosecution and the various defense counsel will be in writing. The court also plans to limit the prosecution and the various defense counsel to 15 minutes per accused, that time to include both the English and the German translations, as well as any rebuttal arguments. Any objections on the part of the prosecution?

MR. BERKOWITZ: May I ask the court for clarification as to what is meant by 15 minutes. Is that 15 minutes average or 15 minutes maximum for each one?

PRESIDENT: I am glad you brought that point up, Mr. Prosecutor. That will be average.

MR. BERKOWITZ: Thank you, sir.

PRESIDENT: That will be the average time. Now, the actual allotment of time can be taken care of by the senior prosecutor and the senior defense counsel. That time limit is the average. Anything else, Mr. Prosecutor?

MR. BERKOWITZ: Nothing else.

PRESIDENT: Is Colonel Wilson here? Mr. McKay.

MR. McKAY: Are these arguments to be submitted to the court prior to their delivery?

PRESIDENT: That is not necessary, Mr. McKay, just so that they are available at the time indicated. Mr. Hall.

MR. HALL: My understanding of the ruling is as follows; that when the prosecution has finished with its initial argument, the defense will follow and argument will thereupon cease. My question then is, after the defense has finished, will the prosecution be given an opportunity for further rebuttal even though they do not utilize all the time allowed to them in their initial argument?

PRESIDENT: Relative to that matter, Mr. Hall, the prosecution will be given an opportunity for rebuttal within the time limit indicated and the same will apply to the defense, but the defense naturally, according to regulations, will have the last say. Does that clarify your question?

MR. HALL: Is that true even though in our final arguments we would have utilized all of our time prior to the rebuttal that may be granted to the prosecution within its time limit?

PRESIDENT: The court will consider that matter when it comes up, but at the same time the time limit as indicated is supposed to include any rebuttal arguments, so in making a division of time that matter should be given full due consideration as far as rebuttal is concerned. Mr. McKay.

MR. McKAY: Is it the intention of the court to have all of the argument translated for the interpreter prior to the argument in court?

PRESIDENT: Yes, that should be done in order to expedite matters.

MR. McKAY: How many copies do you desire of the translations?

PRESIDENT: Make the necessary arrangements so that each member of the court will have a copy, and naturally there should be additional copies available for the other court personnel. Doctor Wacker.

DOCTOR WACKER: I point out the one difficulty that it might be necessary to rebut the argument of the prosecution in the first final argument of the defense, and it is very hard to have something in writing beforehand, before I know what the prosecution will bring. And there is another thing I should like to point out; I should like the court to be big-hearted as far as the time limit is concerned. There were days here when we talked about nothing but the nickname of a witness or the height of a wall or the echo of a shot. Then one half-hour or one hour maybe should not make too much of a difference, at least that we have sufficient time, even if it is a little above the time limit, not to be interrupted at that particular point. Outside of that, I should like to point out that I am the representative of camp commanders like Sehmers of Hersbruck or Brusch from Wolkenburg and Degner from Muelsen, etc; that, of course, is much harder to talk a final argument for them than to speak for a man, for instance, like Herz who has not been mentioned throughout the whole trial. I will, of course, talk this over with Colonel Wilson. I just wanted to point out to the court that there might be a difference of maybe half an hour or something like that.

PRESIDENT: Doctor Wacker, in figuring your time you will have to consider the matter of rebuttal. Now, this matter of division of time as far as the defense are concerned will be left up to Colonel Wilson. The court suggests that you refer those matters that you have just mentioned to the senior defense counsel, Colonel Wilson. The court is

satisfied an equitable arrangement can be made among the defense counsel covering the matters in question. Anything further, Doctor Wacker?

DOCTOR WACKER: Of course, since the court has decided that there will be 15 minutes time limit for each accused, the accused will not like it when another defense counsel clips some of their time off to use it for his defendants.

PRESIDENT: Well, that time limit will be based upon the average. Doctor Wacker, referring back to your question as to whether it would be necessary to have the rebuttal arguments in writing, that will not be necessary; that can be extemporaneous; but the matter the court wants to clarify is that the rebuttal will be included within the time limit.

DOCTOR WACKER: I believe the court did not quite understand what I meant to say. When the prosecution is holding its final argument, then I possibly might have to talk about the things which have been brought out by the prosecution. If I am to have this in writing, then I do not know what the prosecution will say. Is it forbidden for me to go into any rebuttal argument to the points having been brought forth by the prosecution when I do not have that in writing? I might have to go into special points which have been brought out by the prosecution and which I might have overlooked before; but I, of course, can not have that in writing before; I do not know what the prosecution will bring out. May I be permitted to add this, to say that the final argument in general will be in writing, however that we have opportunity to rebut the argument made by the prosecution. I should like to avoid that I am forbidden to hold any rebuttal argument because I do not have it in writing.

PRESIDENT: That matter has already been decided, Doctor, that the final argument will be in writing; but that does not refer to the rebuttal. Now, the main idea of this policy, Doctor, is to expedite

matters. Now, after the prosecution have finished their argument, if the defense needs some additional time, that matter will be given consideration by the court upon a motion of the defense at the time indicated. The court further points out that while one defense counsel is giving his argument, the other defense counsel will have time available. Now, the court also feels that many of these matters that have come up on the part of the defense counsel at the present time should have been ironed out beforehand.

Now, Mr. Prosecutor, are there any objections to the plan indicated on the part of the prosecution?

MR. BERKOWITZ: No objections, sir.

MR. O'CONNOR: Sir, I would like to know if the copies that are submitted can be made exhibits and made a part of the record.

PRESIDENT: What is the attitude of the defense in regard to that? Do they desire to have them as exhibits?

MR. O'CONNOR: Well, the reason I ask is this: If a man is cut off on his time and only got part way through, the court would still have his entire argument before them for consideration and part of the record. Then, there is the further reason that in requesting the translation section and the stenographic section to make copies, the past experience is that it is pretty difficult to get it out of there and you have to have quite a few copies if we are going to submit them as court exhibits.

PRESIDENT: I think your point is well taken, Mr. O'Connor, from the standpoint of the matter of exhibits. Mr. Prosecutor, do you have anything to say on that matter?

MR. BERKOWITZ: I don't know whether it is the intention of the court to have these arguments made orally or not. May I ask for clarification on that point?

PRESIDENT: Yes, certainly, Mr. Prosecutor.

MR. BERKOWITZ: I didn't know whether the court meant merely submit the arguments in writing or cover a certain period of time.

PRESIDENT: Well, the main thing is to expedite matters.

MR. BERKOWITZ: If the argument is to be an argument, it should be just argument and not an exhibit; and if anything is to be an exhibit, that should be taken up at the time it is presented.

DOCTOR WACKER: I should like the court to grant the permission to have these final arguments taken as part of the record because later on there will be petitions for review filed and in these you can always refer to these arguments as they are contained in the record. For that reason I move that these final arguments be exhibits.

MR. BERKOWITZ: That is just the reason I object to it, sir, that if anything is to be subject of review it should come before the court in the regular manner, and if it is merely to submit written arguments, let us follow that policy and not limit anybody because the natural consequence will be that these written arguments which will be admitted as exhibits will run far beyond the time limitation, so that the rule will be avoided. I would suggest, sir, if anything is to come up as an exhibit, let it be determined at that particular time.

PRESIDENT: The court fully understands your point, Mr. Berkowitz, and as far as you are concerned, Mr. O'Connor, the difficulty about that particular proposition of yours would be that you might include something in that argument that never appeared before the court.

MR. O'CONNOR: Well, sir, if the court gets a copy of it, whether it is an exhibit or not, it is going to be before the court; whether it is an exhibit or not they are going to have it, so that is a ruling on something that is not before the court, if it is not an exhibit.

PRESIDENT: Well, that is right if copies are furnished the court as indicated.

MR. BERKOWITZ: I submit, sir, that the proper action to take in this case would be to determine the question as to whether they could be admitted as exhibits at the time they are presented. There might be some special circumstances under which it might be proper and there might be other circumstances where it might not be proper.

PRESIDENT: The court will hold this matter in advisement for the time being. The court is referring to the matter as to whether or not the argument will be received by the court.

DOCTOR WACKER: May I ask one more question?

PRESIDENT: All right.

DOCTOR WACKER: There is one point that is not clear to me. When these final arguments are being held, they are being taken into the record anyway, at least they are being recorded here, so they do not need to be exhibits. But this one specific thing I am asking for, that these final arguments will be added to the record just like every other word being spoken in this courtroom.

PRESIDENT: The court has already stated that the matter will be taken under advisement. You are satisfied with the arrangement made, Mr. Berkowitz?

MR. BERKOWITZ: Yes, sir.

PRESIDENT: Mr. McKay, acting senior defense counsel, are you satisifed with the arrangements?

MR. MCKAY: Yes, sir, and we will strive to comply with them.

PRESIDENT: Now, is that the condensus of opinion of the various defense counsel?

MR. MCKAY: Yes, sir.

PRESIDENT: All right, continuation of cross-examination, Mr. Berkowitz.

HERMANN SOMMERFELD, an accused, voluntarily took the stand in his own behalf and continued to make an unsworn statement through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Sommerfeld, I believe you stated before the recess that there were about 180 to 200 guards.

A All in all, in the whole transport I did not have them.

Q I am talking about the number, Mr. Sommerfeld. Is that correct?

A I can only give a clear answer if I know whether you are referring to the SS, to all the SS accompanying the whole transport or the SS accompanying my columns.

Q How many guards left Flossenburg with this transport?

A Approximately 200 to 250.

Q And the prisoners were marched from the camp to the station under guard. Is that correct?

A Presumably; I was not with them; I was ahead of them.

Q And the prisoners in the cars were kept under guard?

A After they had been loaded they were guarded in the cars; guards were sent into the cars.

Q How many guards were in each prisoners' car?

A From what I saw, two to three; I did not distribute them.

Q Now, when the train stopped at Weiden were there guards posted along the length of the train?

A I cannot even remember having stayed in Weiden for any length of time.

Q Well, when this train stopped near Weiden, they remained there for quite a time and there were guards posted along the length of the train, weren't there?

A Once we stopped a short time before reaching Weiden and food was issued there, and then we were pushed on the siding about eight kilometers behind Weiden and we stayed there for one whole day.

Q And when you stayed there for a whole day, were guards posted along the length of the train?

A Not along the train but they were a long distance away from the train.

Q How far?

A How should I state that in meters - well, approximately 40 meters away from the train you can say; that was on the one side; on the other side they were closer to it.

Q And the prisoners were not permitted to go beyond that line of guards. Is that correct?

A No, they were allowed to move freely within a distance of 30 meters from the train.

Q But not beyond that point?

A No, those were the orders, not any farther.

Q And when you got to Schwarzenfeld guards were posted around the train again, weren't they?

A Bebie was in charge of the distribution of guards.

Q Will you answer my question, please?

A I can't give you any answer to that because, as I have stated in the direct examination, as soon as I found out that I was not going to be used for anything I went down to this house.

Q Didn't you see any guards posted at Schwarzenfeld after the arrival of the train?

A After the train had arrived, of course several guards were standing there.

Q Now, as a matter of fact, every place that train stopped guards were immediately posted around the prisoners, weren't they?

A Around the train; the guards got out and guarded the train, like every place.

Q And when you divided the prisoners and made up your own column of groups of 200 men, each row or each rank of five men was sent 300 meters forward and each row was guarded by two guards. Is that correct?

A Very correct.

Q And then when you went on the foot transport, these prisoners were constantly kept under guard?

A That is also very correct.

Q And when they rested at night they were kept under guard?

A Each block had its own guards around each individual block because we were all not at one spot.

Q Now who selected the men who were classified as being able to continue on the transport?

A I used my own judgment as far as they seemed to be able to me.

Q And you also pushed aside those who were in your judgment not able to continue the march?

A Yes, from whom you could tell by looking at them that they were physically incapable of going through with this march.

Q What was the basis of your choice?

A If I look at a human and I see that he is weak or otherwise physically incapable, I can see immediately whether he is able to march for a certain length or even a small piece. I am not a doctor, so I selected them in this manner.

Q How did you gain this experience of knowing which were able to march and which were not able to march?

A I did not have any experience when I selected these prisoners, but you can see immediately by looking at a human being whether this person is capable of marching or not; that is all I can say.

Q Didn't you get this experience on the transport from Gross-Rosen?

A No, we traveled by train from Gross-Rosen.

Q Did a good many of these prisoners who were with you come from Gross-Rosen?

A No, I don't know that. One single one made himself known to me; I did not recognize him at first.

Q Isn't it a matter of fact that these prisoners who wanted to be considered as able to march, even though they were not able to march, did so because they knew that those who remained behind might be shot?

A No, no, that is not the case at all. I believe that Mr. Prosecutor has not been through one of these attacks by low-flying aircraft. These people were not afraid of being shot, but all of these people were afraid of attacks by low-flying aircraft; that is something terrible.

Q Well, these people who were to remain wouldn't have to walk, would they?

A No, they didn't have to; however, they still were in the danger of air attacks.

Q Did you see the orders that Berger gave to Bebio?

A I should like you to be precise here so I know what the prosecutor means, what order.

Q Well, when you were at Schmarnenfeld didn't you receive written orders from Berger?

A Yes.

Q Were the orders to Bebio incorporated in that writing?

A No. Bebio, himself, got the same document.

Q Were Bebio's orders incorporated in that document?

A The orders contained in this document have been testified to by the witness who wrote them down, himself.

Q Answer my question, please.

A May I hear it again?

(Whereupon the last question was read by the reporter.)

A Certainly, because mine were incorporated in there.

Q What were the orders to Beblo?

A I did not have Beblo's orders in my hand, only mine, but I know that both of them had the same wording.

Q Will you please answer my question. What were the orders for Beblo in that writing?

A I did not have Beblo's writing in my hands.

Q What were the orders for Beblo in the writing that you had in your hand?

A The writing I had in my hands concerned the orders that were given to me, not to Beblo.

Q You just told me that the orders that Beblo got were a copy of the orders that you received.

A That makes the question of the prosecutor unnecessary because, as I stated, both of them were identical; both of the documents were identical and contained the same orders.

Q And that document contained your orders?

A The document I had in my hands contained my orders; the one Beblo had contained his orders; however, both documents were the same.

Q Well, were Beblo's orders the same as yours?

A I did not have Beblo's orders in my hands, however, I only know when these orders were announced that both of them were the same.

Q Who announced them to you?

A They were read to us before they were handed to us.

Q And were the orders for both of you read?

A No. This order was read once and the contents were the same. I know that.

Q Well, was Beblo to take a foot transport?

A Beblo received the transport of the sick prisoners.

(Sommerfeld-Dross)

Q Did his orders say that?

A Major Berger told us that directly in the morning, as I have already stated in direct examination.

Q Did his written orders say that he was to take the foot transport?

A No. You mean Bebio?

Q Yes.

A No.

Q Well, did he get those orders orally?

A As I have stated, it was given orally in the morning that the transport would be divided and that those capable of marching would be taken over by me, and the others by Bebio.

Q Well, Mr. Sommerfeld, what were the oral orders to Bebio?

A Bebio received the orders, "You will stay in the station here with the sick prisoners and you will try to return by train to Neumburg."

Q Was there anything else in these orders?

A No.

Q What were in your written orders?

A The written order contained exactly that that was read by the witness on the stand today. I can't give you exactly the contents of it anymore, however I can still give you the sense of it.

Q Well, tell me what you remember of it.

A The column which marches on foot will under no circumstances shoot any prisoners who are incapable of marching, during any time of this march.

Q Did you ever receive an order like that before?

A I know why this question is being asked. This order was just as incomprehensible to me when I received it, but I shall state now why it was given because there must be a reason for such an order, otherwise it wouldn't be given. While we traveled and stopped shortly at

different places, I talked at various times with Major Berger and he told me the following. It was known to me that he had given a similar order on the way and I was especially surprised about this particular point and I asked him about it. I asked him for the cause of it. He told me the following then: When he was at Flossenburg, many, many details or transports of evacuated prisoners arrived there. One case has been discussed here already; one SS man reported a non-commissioned officer because he had shot someone to death on the march; and by way of rumors which are not being reported positively as reports tell you something, too; and Major Berger told me that for that reason he issued this order to our transport to lock the door for any such doings right away and for that reason he gave this order that no one would be shot. That is the whole explanation for this shooting prohibition.

Q Did Berger tell you that?

A I conversed with him on it, what about this, because such an order surprised me.

Q Where did you discuss it on the way with him?

A Oh, my God, I sure can't give you the exact point any more where we started or what point I talked to him about it; that could have been when the engine had been damaged or that could have been at some other stop. I surely can't bring you any witnesses as to where the point was and you probably can't find one either.

Q Well, did you discuss this with him when you heard that he had given such an order before you reached Schwarzenfeld, or did you discuss it with him after you received the order written in Schwarzenfeld?

A That doesn't have a thing to do with the orders in Schwarzenfeld about my marching away; that had been discussed on the way at various points already.

Q Did Berger ever ask you if that order was being carried out?

A I, myself, saw to it that such a thing did not occur in my marching column and that the order would be carried out.

MR. BERKOWITZ: Will you answer my question please? I am sorry. Will you read the answer please?

(Whereupon the last answer was read by the reporter.)

Q When you passed these dead bodies on the road, what did you do?

A I got off.

Q What else did you do?

DOCTOR WACKER: Is it clear where he got off from in the translation?

MR. BERKOWITZ: Please the court, I don't know whether this is a challenge to the interpretation or whether it is additional information which the defense counsel is trying to supply.

PRESIDENT: Are you referring to the translation, Doctor?

DOCTOR WACKER: I don't know whether the translation expresses clearly what the witness stated.

PRESIDENT: Well, let's be more specific, Doctor. If you are referring to any particular word or any particular expression, let's be more specific about it; otherwise you can cover this matter in the course of redirect. All right, proceed.

QUESTIONS BY MR. BERKOWITZ:

Q What did you do when you got off?

A I should like to be clear in my mind which bodies you are referring to. You are referring to those I testified about in my direct examination? - because those are the only ones I ever saw.

Q These are the only ones I am asking about.

A O. K. I got off the bicycle and I examined individual ones to find out the cause of their death; they were not all in one pile.

Q And what did you ascertain as the cause of their death?

A I ascertained the cause of death on three bodies; one of them had a severe chest wound, everything was open there; the other one's stomach and leg had been torn open, a big piece of flesh was missing; and the third one also had a big hole in his head. I didn't examine anything else, but continued to drive on.

Q Could you tell from your examination what caused these holes?

A I am not a doctor, but I allow myself to judge this by saying that these wounds were caused by something heavy; it might have been shots from heavy arms.

Q How many bodies did you see?

A It started two and a half kilometers before Neunburg and stopped about a thousand meters before Neunburg, so that I should estimate that the bodies were stretched over this territory and I estimate that there were 20 of them.

Q How were they clothed?

A Civilian clothes, but I could see that they came from a civilian concentration camp because they had the insignia; also there were some striped suits.

Q Did you see that these bodies had numbers on them?

A I didn't mess around with these bodies; it is possible that they still had their numbers on, but I didn't see them.

Q Did you see any bodies beyond Neunburg?

A No, I left there when it was dark; it was pitch black; it was night; you couldn't see more than three meters ahead of you. I drove ahead so that I could not even see my own columns, because I had gone ahead of them.

Q Did you see anybody that had been shot through the heart?

A No.

Q Now, you stated that you left with six columns, that you arrived at Stamsried with two, and that you waited for three more. What happened to the other column?

A Yes.

Q What happened to the other column?

A I said that I was in the village with two columns over which I had the oversight myself, and that I had received written reports from the other three columns which had been quartered on the outside.

Q Yes, but what happened to the sixth column?

A When this bomb attack had taken place and the woods were burning, I was afraid that the burning woods would attract more attention and I gave orders to Schmidt to move down another thousand meters with his column and when we later on changed bivouac I sent a messenger down to Schmidt to have him also assemble with the rest of the columns, but when the messenger got there that column was gone, it was not even there any more; and that block, from what I heard here in the courtroom, is the only one which ever reached Dachau.

Q What non-commissioned officers were in that block?

A I don't know any of them; I didn't know any name; I only heard the name Schmidt here. There were other sergeants around there and so far as I can remember, at that time, at the first camping place I sent Technical Sergeant Graeber over there; and the first night, after leaving Schwarzenfeld, Klinkert was with this block. I called Klinkert back to me the next day.

Q Did this block precede you into Neunburg?

A So far as I know from the courtroom, from the proceedings, this block passed through Neunburg after we had passed through. I, personally, never saw this block again; just like the other three blocks which had stopped in front of Stamsried, I never saw them again.

Q And when you saw Berger at Neunburg, despite his order not to shoot prisoners, you didn't think it important enough to discuss with him the fact that you had seen corpses along the way. Is that correct?

A Mr. Prosecutor, as I stated in my direct examination, when I passed that spot again where the corpses had been, I remembered that I had forgotten to tell Berger all about this incident and was determined in my mind to tell him that very evening about this.

Q When you went to see Berger the first time, you didn't think it important enough to tell him that corpses had been found along the road despite his order not to shoot prisoners.

A I beg the prosecutor's pardon. We are human and never perfect.

Q Were there any other children on this transport besides Berger's children?

A Only Berger's two small children.

Q Weren't there a number of boys on this transport?

A No, but you can say juvenile prisoners around 17 and 18 years old; they were present also.

Q Weren't there some boys from eight years up on this transport?

A No.

Q Don't you know that some boys were shot on that transport?

A No. As long as I was there, no boy was shot, and as I said, the limit was around 17 or 18 years old; they might have been 20 or 21; I can't estimate exactly.

Q What instructions did you get concerning prisoners who might attempt to stray from the column?

A There were surely prisoners who removed themselves from the column during that last night. Of course, I can't give any reasons as to why, but certainly some of them took off.

Q Did any of them take off or attempt to take off prior to the last night?

A I can't say because I was not along, but it was said that some of them took off, and my estimation of the column was only an estimate when I said 300.

Q Now, what were your orders concerning those who attempted to escape?

A The order had been given and as far as I was concerned was competent; as a matter of fact, I was glad about this order that no prisoners would be shot to death, even while attempting to escape. I should like to state here, however, that the prisoners did not know this order and did not dare, or very many of them did not dare, to remove themselves.

PRESIDENT: The court will take a half-hour recess.

(Whereupon at 1500 hours the court recessed until 1530 hours.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If it please the court, may the record show that all the members of the court are present; all the personnel of the prosecution are present, with the exception of Colonel Denson and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson who is absent on business of the accused; and all the accused are present with the exception of Oswalt, Lipinski and Losch, who are ill, and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom.

PRESIDENT: Continuation of cross examination?

HERMANN SOMMERFELD, an accused, who voluntarily took the stand in his own behalf, continued to make the following unsworn statement through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ:

Q Now when you returned your prisoners, you say you did that before a former prisoner who was a member of the camp police. What did you say his number was?

A 359.

Q What was his name?

A I don't know. I don't know his name.

Q What did he look like?

A Well, he had a medium build, but I can't even remember the color of his hair; I can't even remember actual details any more.

Q How old a man was he?

A Well, he couldn't be so old; I don't know; at the end of 20, the beginning of 30.

Q I show you Prosecution's Exhibit No. 12, and calling your attention to the line marked 359, I ask you to read the name and the birth date of the prisoner under that number?

A "No. 359, Gilay, the 6th of January 1893."

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect? Dr. Wacker.

THE WITNESS: May I say something here.

PRESIDENT: You will have an opportunity later on.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q To whom did you turn over the prisoners in Stamsried?

MR. BERKOWITZ: That is objected to as repetition.

PRESIDENT: This matter has been mentioned several times, and the document has been referred to, but the individual has not been definitely identified. Now, Dr. Wacker, if you feel that you can get additional information before the court, the court will receive it.

DR. WACKER: That is exactly what I was trying to do.

PRESIDENT: All right, proceed.

QUESTIONS BY DR. WACKER:

Q Sommerfeld, please give us an exact description of the man you turned the prisoners over to in Stamsried?

A That was a man from the camp police, No. 359.

Q Where did this man carry this number 359?

A Here on his sleeve on a band (indicating).

Q Where did the prisoners carry such numbers as was seen on this document?

A They were seen on here in the front (indicating).

Q And how was this number 359 worn--how could you tell where it was?

A It was worn on an armband.

Q What did the armband look like?

A Light.

MR. WACKER: For the time being, no more questions.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further, sir.

PRESIDENT: Any questions by the members of the court? Major Lanham.

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q You stated that you saw about twenty dead bodies along the road, and that you did not make any report to Major Berger. Can you tell the court whether or not those dead bodies were from your columns?

A No, my transport was making camp seven kilometers distant.

Q And you are sure they were not from your column?

A Yes, I am sure of that; they were not from my column; my column was lying in rest making camp near Fuhrn.

PRESIDENT: Any further questions by the members of the court?

QUESTIONS BY LT. COLONEL SMYLY:

Q Will you give the court the exact words of this order not to do any shooting?

(Accused Sommerfeld - Court)

A I assume that I can give that back to you almost literally.

Q Well, do that please.

A It is forbidden to shoot at any prisoners who cannot continue to march, and that anybody who couldn't continue the march should be brought to the next village and there turned over to the mayor of the village, and a receipt should be asked from the mayor, and if a prisoner was so weak that he couldn't continue the march even though supported by comrades, then he should be put on the wagons and brought along, and also it was also forbidden to mistreat anyone, and it was advised that prisoners be brought to their destination as practicably as possible without any losses. That's an order which I had.

Q Now, that was a written order, is that true?

A Yes, just about that; that's the essential part of the order.

Q Now, is that all it said about shooting prisoners?

A Yes, there was also something there about attempts to escape.

Q Well, that is want I want to get at; I want the whole thing about shooting prisoners now.

A Yes, it said that it would be a basic prohibition against shooting at any prisoners even though they were trying to escape...

Q Now, when you went back to pass on these instructions, how did you explain to your guards what action to take in case of escaping prisoners?

A When I went back....I don't know exactly what the lieutenant colonel is driving at, I don't know exactly what point of time.

Q When you received these written orders, you had to pass them on to your guards, did you not?

A Yes, that's right.

(Accused Sommerfeld - Court)

Q Now, how did you explain to them about guarding the prisoners and still not shooting at anybody who escaped?

A I instructed the guards to guard the column--the transport--such as they would guard any other transport; that is to say, they would march alongside the prisoners so that the prisoners would believe that the same regulations existed; however, the prisoners did not know that this order was there and that it was prohibited to shoot prisoners.

Q Then the idea, as I understand it, was just to pull a big bluff, was that the idea?

A Yes, the prisoners shouldn't know what was in this order because if they did know about it then everybody would have escaped before we had gone on a few hundred meters.

Q And did you continue to carry your ammunition allowance along?

A Yes, we continued to carry it just as always.

Q Well, did it not seem that that was dead weight to you when you carried ammunition and were not ordered to shoot?

A The guards were fully equipped. They already received ammunition when they were acquired back there at the guard battalion. At that time the guards knew nothing about the order that they wouldn't have to shoot, but guards all had rifles and ammunition.

Q Well, wouldn't you think it would be a safety precaution to have gotten rid of all this ammunition, did you think about that?

A Well, the way I understand this question, when you speak of a security measure, I can only understand it to mean that a guard would carry this ammunition along in case the unarmed men he was guarding would suddenly attack him and he would have to defend himself.

(Accused Sommerfeld - Court)

Q As I understand your orders, you did not have to shoot even though they were escaping?

A That's right.

Q But you actually carried the ammunition around, as I now understand it, to protect yourselves, is that the idea?

A Yes, if they thought they had been attacked they would have defended themselves.

Q Then the arms and ammunition were just carried as self protection only, is that true?

A Well, the people had to keep their rifles and their guns with them; you couldn't just throw away their rifles and ammunition after we started to march away. The prisoners would immediately know what the score was, because when the people received ammunition and rifles this order was not known at all. And what should they do with them during the march; they received them and should naturally keep them.

Q Now, did you hear any guns, any carbines or pistols fired, or did you see any fired during this transport?

A The first day when we were lying on this big hill I heard shots fired at a great distance. On one occasion I heard isolated rifle shots being fired at a great distance, but that was at a distance of at least 2½ or 3 kilometers.

Q Did you see any firing at all in your column?

A No.

Q You did not see a single round fired?

A No, I was only with the column for one day. The next day I wasn't with it any more.

(Accused Sommerfeld - Court)

Q You mean you were on with your column for a short period of time, is that right?

A I was only with my column when the people were marching on foot for one day, and then I was away the next day, and nobody on that column was shot to death, and a prosecution witness here has even backed that up.

Q How many men did you have on this Gross Rosen transport?

A I estimate 3,500.

Q Was there any shooting on this transport?

MR. HALL: If it please the court I have an objection. I believe it has been brought out in the examination in connection with the accused Graeber that Gross Rosen was not a part of the Flossenburg transport and that questions pertaining to the activities on that march were not within the scope of the charge sheet before this court.

LT. COLONEL SMYLY: I withdraw the question.

PRESIDENT: The question has been withdrawn. Are there any further questions by members of the court? Colonel Burcham.

QUESTIONS BY LT. COLONEL BURCHAM:

Q You went to great length in explaining about this order that there would be no shooting. Was it the custom for concentration camp guards to shoot the sick and wounded, or sick and disabled, on marches?

A Colonel, I can't give you much information there. I never was in a concentration camp.

LT. COLONEL BURCHAM: That is all.

QUESTIONS BY PRESIDENT:

Q Sommerfeld, you have endeavored to impress this court with

the fact that you strived to carry out the highest precepts of the German officer.

A Yes.

Q Well, the court would like to know why you turned over the men in your column to this prisoner No. 359 and from that point on left the column and went on your own?

A I was carrying out an order which had been given, and the order read that "when we make contact with enemy troops the prisoners would be turned over to the camp police and that I would take my guards and join the nearest fighting unit". I carried out the first order. I turned over the prisoners to this camp policeman. He was the only one there, and he was to surrender them further. But if I carried out the second order it would have meant an unnecessary slaughter of lives in a thing which was completely hopeless as far as I saw it and for that reason I released the guards and I went on my own way.

Q Just who did your order indicate that you were supposed to turn over the column to?

A I was supposed to turn over the power of command to the camp police.

Q What camp police--the camp police out of your column?

A The camp police which had come along with our column. There was only one of them there; the others weren't there any more.

Q And your orders were to the effect that you were to turn over the prisoners of the column to the camp police upon contact with the enemy, is that the idea?

A The order read as soon as we had contact with any enemy units the prisoners were to be turned over to the camp police, and the camp

police are to turn them over further to the American authorities.

Q Were you in contact with the enemy at that time?

A Yes, I was scarcely 800 meters away from action, and the tanks had arrived, and there were shots being fired.

Q Did you have any casualties at that time?

A No, I was over on the side and they were shooting at the village.

Q Did your orders also specify that you were just supposed to turn the guards loose and for you to go on your own?

A No, I did that on my own responsibility.

Q Well, did you still feel that you were following out the precepts of a German officer in doing that?

A Yes--no, because it was my opinion that when a fight is completely hopeless then it is my duty as a human being not to needlessly sacrifice human lives, but it is my duty to release them just as if I was commander of a garrison and if the fight were hopeless I would surrender the garrison.

Q You felt in carrying out an action of that nature that you were carrying out the orders of your superior officers, is that right?

A I gave this order on my own to my guards. A higher officer did not give me any order to release these people. I was standing there on my own. There wasn't any higher officer at hand and I had to be such a man that I would take the matter in my own hands.

Q Then your plan was to have every man for himself, including Lieutenant Sommerfeld, is that right?

A Yes, I gave the people freedom. As far as I was concerned the people were released. If they wanted to they could go and join another fighting unit. Perhaps there was an error. How do I know? But I acted

according to my best convictions.

Q But you did not join another fighting unitfit, did you?

A No, not I. No, because the battle was completely hopeless, and there wasn't any piece of land which was not encircled, and the battle was hopeless.

PRESIDENT: Any further questions by members of the court? Colonel Skielvig.

QUESTIONS BY LT. COLONEL SKIELVIG:

Q Sommerfeld, who gave you this order to turn over your prisoners when you came in contact with troops?

A That was in the order, in the written order which I got from Berger in Schwarzenfeld.

Q Just a few minutes ago when you testified in response to questions by Colonel Smyly as to all that the written order contained, you did not mention that, I believe. What have you got to say to that?

A No—when the colonel asked me whether I got an order from a higher officer I understood him to mean whether there was another higher officer there at the scene who gave me a special order for that situation. Then, if I omitted that it was a mistake of my own and I misunderstood the question.

Q All right. What else was there in that written order that Major Berger gave you at the time, besides what you have already told us?

A I don't know of anything else that was in there. I have given you the contents of this order as best as I could, as best as I can remember.

Q He definitely gave you orders then to turn these prisoners over to the camp police?

A Yes, that was made known when the order was read out loud.

Q Did he give that to Beblo too?

A Yes, as I already said, his order had the same contents as my order.

LT. COLONEL SKIELVIG: That is all.

PRESIDENT: Any other questions? Colonel Smyly.

QUESTIONS BY LT. COLONEL SMYLY:

Q What was your main job according to that order?

A To take the prisoners further in the direction of Dachau. That was the final destination, but every day we would get an order and that order would tell us how far we should go in one day's march.

Q The order did not mention anything about shelter or food, or anything like that?

A Well, there wasn't anything about that in the order itself, but when we were in Neunburg we discussed that, we discussed where we would get our next food from. We were supposed to pick up our next food in Straubing, but we never got that far.

Q Did you explain to Major Berger the impossibility of carrying out this order of transporting these people without being able to restrain them in any way if they wanted to escape?

A We talked about the stateof affairs in regard to this order, and about the actual contents of the order, and got back to brass tacks there, and Mr. Berger had about the same opinion as I had; in other words he knew that the whole evacuation of the transport was impossible and that was the same opinion as I had. And after that we discussed the whole situation with special regard to shooting, that nobody would be shot. We were both clear about that.

LT. COLONEL SMYLY: Nothing further.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

DR. WACKER: No more questions, but I assume that now Mr.

Sommerfeld will have opportunity to make remarks in connection with the testimony against him by Landsberger and Szlamkiewics.

PRESIDENT: Any further examination?

MR. HALL: I have a question in the nature of cross examination in connection with the accused Graeber.

PRESIDENT: Proceed, but keep in mind, Mr. Hall, that your original objection to the question involving Graeber was sustained by the court.

MR. HALL: Yes, sir.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Sommerfeld, in the cross examination by Mr. Berkowitz you mentioned the name of the accused Graeber. I ask you to look over to the dock and see if he is present here?

A Yes (indicating).

Q And also in the course of the cross examination by Mr. Berkowitz you mentioned the name Schmitz. I ask you to look over the dock and see if he is here?

A Schmitz is not among the accused.

Q And where is he?

A Schmitz? I don't know whether he is in the camp here or not, but I believe he is.

Q Have you seen him since you have been here in Dachau?

A I saw him once here in the waiting room, but I must say that at that time I neither recognized him nor knew him by name. I only found out later that he was the one.

Q And did you ever see him in my presence?

A Yes.

Q Now whatever may be the name, is that man the one whom you placed in charge of one of the columns, the column to which Graeber was also sent to?

MR. BERKOWITZ: I object to the question on the grounds of repetition.

PRESIDENT: Objection overruled.

A In the presence of Mr. Hall this man who is called Schmitz was presented to me as the leader of the column in which Graeber was and I took a good look at the man and tried to recall him, and I believe that he was one of these column leaders and I believe he was the leader of column 5. I believe that's right.

Q Now, Mr. Sommerfeld, do you just "believe" now, is that what you want to say?

A No, that is for sure, because Graeber recognized him also.

Q Well, do you know whether or not it was? I am not interested in what Graeber recognized. Do you know?

MR. BERKOWITZ: That is objected to as argumentative.

PRESIDENT: Objection overruled. The question will be answered.

A Yes, I recall this man. I remember his face. It stood in my memory because when the air raid took place I really gave it to this man--I really scolded him, and that is the reason why I was so accurately able to recall his name.

MR. HALL: That is all, sir.

PRESIDENT: Any further questions by the members of the court? Apparently not. Anything further by the defense?

(Accused Sommerfeld - Redirect)

DR. ACKER: No.

EXAMINATION BY THE COURT

PRESIDENT: Now, Sommerfeld, the court will give you an opportunity to make any exclamations or any statement to the court that you see fit to make.

THE WITNESS (Accused Sommerfeld): I will speak as briefly as possible.

PRESIDENT: Yes, the court desires you to be as brief as possible.

THE WITNESS (Accused Sommerfeld): First of all I would like to express to the court my personal opinion of all the charges which have been brought against me as they read on the charge sheet. I believe in the justice of God and his will, and the only people who will prosper by the will of God are those people who speak the truth, and the court knows what the prosecution witnesses Landsberg and Skiamkiewicz have said here in testimony. Before these two prosecution witnesses appeared here I never knew either one of them and I don't believe either one of them knew me. I have reached the age of 55 years without ever being punished and without ever being admonished. I have gone my own way and minded my own business just like anyone else who thinks justly. Besides that, God has given each of us his life and no human being is authorized to take the life of another, and anybody who tries to jump ahead of God will himself be thrown out of mankind.

I beg the court to check the testimony for the prosecution witnesses and find out what is true there and what is not true. I will now go into detail about the various points in the testimony of the prosecution witnesses.

(Accused Sommerfeld - Court)

In regard to the incident in Flosz where I am supposed to have shot these two people to death--that is the testimony of Szlamkiewicz--I would like to say the following: I must say that if I had had an idea that day that some day this slander would be thrown in my face here in this court, then I would have ordered three guards to follow me around in the railroad station to see what I was doing, but as it happened there was nobody there at all who could observe any incident, not even Szlamkiewicz, who maintains that he did see it. And now I am coming back to the testimony of Szlamkiewicz in regard to Schwarzenfeld. I beg the court, as experienced officers, to form their own opinion about the matters which are contained in the testimony of Szlamkiewicz. He said that during an air raid attack the SS had fired shots and that 50 people had been shot to death. Let's assume for the moment that this testimony is true. When people are firing at one target from two sides, how is it possible for a man to say that a person in the middle was hit by a bullet by one side or another person was hit by a bullet from the other side; and that is supposed to have taken place during the air raid; and I believe that the court still has in mind how Szlamkiewicz sat here on the witness stand. I don't want to force my own personal opinion upon the court. I asked the court to make their own opinion of the man as they observed him on the witness stand, and I ask the court to believe that he was so courageous and without fear that he stood there in the air raid and made these observations which he has claimed to have made. I don't believe I am wrong in maintaining that Szlamkiewicz must have looked for cover just as anyone else as soon as the air raid started. I don't have to go into such detail about the testimony of Landsberg, but I would like to say in that regard that I was standing 300 meters away from the

transport there and was counting over the prisoners who were capable of marching and not capable of marching. Landsberg maintains that I was supposed to have given the order then, that those who were not capable of continuing the march should be shot to death. Six columns marched away and no column got this order except the column in which Landsberg was, and nobody in this column heard the order except Landsberg, despite the fact that I was standing at a distance of 300 meters from the column and when the column was marching away I wasn't actually in the column.

And now I would like to come back to the lies and slander that Sulamkiewics had thrown in my face here. I would like to count them off and show the reason why they are all nonsense. In regard to Floss, when the man was asked to identify me stood up and said, "I believe that is he". When I know somebody for sure among the accused I don't say, "I believe that is he". I say, "That is he." That is a sign of an uncertainty; and he began to be more sure of himself after it was shown by more testimony that I was Sommerfeld; and even went so far that he invited me, challenged me to step out here with him and he would tell me if that was thetruth or not; and I believe all his efforts was directed towards convincing the court of his own ideas, and besides that he said that his train was changed in Floss. A number of witnesses have already testified to the fact that that is not true. And another lie--the second point. He said that he had left Schwarzenfeld in the evening and got into Neunburg in the morning, and he said he left the column from Neunburg with another column just as the column of mine had left. And so he and I and the whole column must have arrived in Neunburg on the next morning, that would be on the 20th, early in the morning. Witnesses have proved here that we laid in the woods here for two days before we reached

Neumburg and that we didn't reach Neumburg in the morning but in the evening. And besides that he claims that on the 22nd I had taken ten people who were not capable of marching and had them led up on an elevation in a forest together with two guards—and the people were capable of marching to the left and to the right—and these people went through there; and he said that these consisted of ten men, that these ten men didn't come back again, and by that he meant to awaken to the court the impression that these ten men had been shot to death. It states in the record that on the 22nd I was in Stamsried and I didn't spend one single hour that day in Neumburg. Besides I wasn't the only one there—my whole column was with them. That is, if we weren't in the column itself we were in the area around the town. And the main point I am driving at here is that a fellow countryman of Szlankiewicz said exactly the opposite of what Szlankiewicz said. That is also verified by a prosecution witness as well as defense witnesses which I have called on my own behalf. And so what I am to say about that is not only that the witnesses [redacted] proved that he is a liar there, but his own fellow countrymen.

I now want to touch briefly upon testimony which Landsberg made here. Part of which Landsberg has said was the pure truth. I don't understand what he said about that he could have met 95 prisoners in front of Stamsried, 95 of 200 who were supposed to have marched away. Despite the fact that I wasn't there myself I would like to go into this matter briefly. In the same testimony he said that prisoners were still quartered in the other barns. It is possible that he is right when he said that 95 prisoners were in the same barn with him because the last prisoners had a baggage wagon with them, and I assumed that the other prisoners

in the other barns were also counted off. That is my own opinion because I wasn't there myself. And in his own group when he says there were 95 there, he may be right. And the next day the leader of the column in question gave me a report in Stamsried that nothing of interest had taken place, nothing unusual, so there is something wrong with that story. Besides that, that is the same witness who testified against Retzlaff and maintains that Retzlaff beat two prisoners to death. I leave that up to the court to make a decision about that, about what was true and what was not true about that story. At that time my attention was called to the fact that I hadn't shown enough responsibility. I don't know whether the court can also understand by my testimony, in the same way, that I did show responsibility in view of the fact that I was constantly trying to get quotas for the prisoners and was trying constantly to feed them, and that I was always giving myself trouble to take care of these people and save their lives as much as possible instead of putting out their lives.

If there is any truth at all in what Szlamkiewicz says then the only explanation can be that Szlamkiewicz confuses me with Beblo, because on the 22nd, the morning of the 22nd, Beblo was still in Neunburg, but by that I don't mean to maintain at all that such an incident took place with Beblo or that Szlamkiewicz is trying to put in my shoes this incident because that shows a bad character, when you try to throw dirt on somebody in regard to an incident which you didn't personally observe. And Szlamkiewicz said that in Schwarzenfeld he had been picked out and that he had been commissioned with carrying dead bodies to put together and that he had to dig a grave, and later on he had to enter the 50 dead

bodies there which the SS had shot to death.

One thing which surprised me very much in court was the testimony which Ginschel made when he was being questioned by the prosecutor, and this testimony of his disclosed a lot of uncleared up matter in Schwarzenfeld. At that time Ginschel testified as follows in response to the questions by Mr. Berkowitz: He said that he had been sent to Schwarzenfeld from Neumburg by Beblo and he said that when he arrived there he had received an order from a sergeant of the SS to shovel ten dead prisoners into a grave; and he said that this grave had already been partly dug—the work on the grave had been begun the day before, and that they finished the grave, made it bigger before they put the bodies in it. And he said that the person who was supposed to be in that detail he had recognized here sitting in the witness stand—one of the people from that detail. I don't know what I just said. And nobody else ever maintained that, no one in the world except Mr. Szlamkiewicz who sat here in the witness stand, and it couldn't have been anybody else. And then it is maintained that I am supposed to have given this order that these dead people be put into this grave. I never gave an order that a grave be dug, and in Schwarzenfeld I never gave any order that people be interred. And it may be that Szlamkiewicz was not in my column at all, because part of Beblo's column was still in Schwarzenfeld at that time, Saturday. And here is the same mistaken identity. The man who dug out this grave was from Beblo's column and not from mine; and when he said that they marched away Saturday he could be right when he testifies that. He said that he drove away at night and arrived in Neumburg in the morning, and what Ginschel says there in his testimony agrees with what he said that in the evening they drove away and drove through the night, and late at night

or early in the morning they arrived in Neunburg. And then if the men did leave Schwarzenfeld Saturday night they arrived Sunday morning, the 22nd, in Neunburg; and so a large part of Szlamkiewicz's testimony in that respect would not be false then, but merely that he mixed up the dates.

I can't tell the court any more about whether Beblo had a mustache and a full beard or not and that I didn't have any. That was not the purpose of the question in regard to Szlamkiewicz and Beblo, but was to determine whether a mistake of identity had occurred because Beblo and I looked very similar. The only difference is that Beblo had a very short trimmed mustache here. My conscience is completely clear and I look hopefully toward the future. I don't have anything else to say.

PRESIDENT: The court understands the defense is finished with this witness for the time being.

DR. WACKER: Yes.

PRESIDENT: The witness will be excused and will resume his position in the dock.

(Whereupon the witness was excused and resumed his seat as one of the accused in the prisoners' dock.)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

DR. WACKER: Mr. Dambeck now appears as a defense witness for the accused No. 6, Brusch.

JOHANN DAMBECK, called as a witness for the defense, being first duly sworn, testified through an interpreter, as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Dambeck, what is your full name?

A My first name is Johann, and the lastis D-a-m-b-e-c-k.

Q How old are you?

A 58 years old.

THE WITNESS: I am somewhat hard of hearing. You will have to speak loudly please.

Q Are you married?

A Yes.

Q Where do you live?

A Leigenisarhofen.

Q What is your profession?

A I am a chief secretary with the national railroad.

Q In April 1945 what was your profession?

A I was chief secretary with the national railroad then also.

Q Where did you perform your duties?

PRESIDENT: Just a moment. Request the witness that he must refrain from answering until you are finished with the interpretation.

(The interpreter complied.)

A I was chief secretary at that time also with the national railroad in Weiden, in Upper Palatinate.

Q What duties did you have then?

A I was director of transportation there.

Q When you performed your duties where did you stay according to regulations?

A In the order station.

Q Where is that located in the railroad station in Weiden?

A On the ground floor of the building of the railroad station.

Q Dambeck, do you remember a transport of female prisoners which arrived in the railroad station in Weiden?

A Yes.

Q What date was that?

A I can't remember the exact date any more; it was either the 16th or 17th of April.

Q In what year?

A 1945.

Q During that period of time did any other transport of female prisoners go to the railroad station in Weiden?

A Not when I was on duty.

Q Please tell us if anything unusual happened on that date when this transport of female prisoners arrived in this railroad station in Weiden?

A We had a very severe air raid attack on that day.

Q Where did you stay during this air-raid attack?

A In the command post, in the main works.

Q What did you see after you left the command post, after the air raid was over?

A While the air raid was in progress I saw a number of female prisoners from this transport fighting among themselves on the platform. They were fighting for packages, mail packages.

Q Was the train still standing on the railroad station- the train on which these female prisoners had arrived in this railroad station in Weiden?

A Yes.

Q Please describe that train?

A I threw a damper over at this train and I saw that the cars were open, that the women had come out of these cars.

Q Did you have a place there at the railroad station in Weiden in which to take care of passengers?

A Yes.

MR. BERKOWITZ: Just a moment, please. May I ask that the witness again be instructed to wait until the interpreter is finished with his translation.

PRESIDENT: The interpreter will pass those instructions on.

INTERPRETER: Yes.

QUESTIONS BY DR. WACKER:

Q Did anything unusual happen, other than you have already testified, on the day in question, on this particular day at the railroad station in Weiden, in connection with this place where the passengers were taken care of?

A This baggage room at the railroad station in Weiden on this particular day was plundered, and when I saw these women tear each others hair and really give it to each other, I noticed that a lot of packages were lying around there outside this baggage room, and a number of suitcases had been broken open.

Q Did you see any guards near this prisoners' train?

A No.

Q Did you see any SS people?

A No.

Q How many female prisoners did you see?

A I only saw five or six women--those who were on the platform.

Q What kind of railroad cars were they?

A They were covered baggage cars.

Q When you say that the cars had been opened, what kind of doors did the cars have?

A To the left and to the right they had one sliding door each, such as covered freight cars have.

Q How much opportunity did you have to observe this train at the railroad station in Weiden?

A Just for a short time because the strafers came down again and made another attack at the railroad station, and I went back to the command post.

Q And what did you see after the air raid was completely over?

A I didn't pay any more attention to it. As far as I was concerned it was all done for. At 12:00 o'clock I was relieved.

Q Afterwards, did you see any guards or any SS people?

A No.

Q Mr. Dumbeck, please describe the area around the railroad station in Weiden?

A The railroad station at Weiden is located approximately in the middle of the town of Weiden.

Q Starting from the railroad station in Weiden, how far do you have to go to reach the next forest--the nearest forest?

A In any direction you would go, you would have to walk for at least 25 to 30 minutes.

DR. WACKER: That is all.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q How do you know that these five or six women you saw on

the platform were prisoners?

A I was looking out the window during the air raid attack. From my position there of the command post, from the office of the railroad.

Q Will you answer my question please.

A Well, I recognized them by what they were wearing.

Q What were they wearing?

A Well, their clothes looked rather beaten up.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

DR. WACKER: No more questions.

PRESIDENT: Questions by the court? Apparently not. The court understands that the defense is finished with this witness?

DR. WACKER: That is correct.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: The court will adjourn until 9:00 o'clock Monday morning.

(Whereupon the court adjourned until 0900 hours, 9 December 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage. .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on .....194 .....
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

Copy of above served on accused ..... 194.....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

PAGES 7776 - 7845, INCL.

First Duplicate Copy

Case No. .....

Prosecutor .....

*~~Summary~~
*~~Intermediate~~ Military Court.
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 9 DECEMBER 1946

Reporter .....

~~Members of Court~~

0950 hours to 1700 hours

HUEBEL, ARTUR (Cont'd.)
KILB, HERMANN ALEXANDER
OHNWEILER, KURT
RUELICKE, WILLI

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES VERSUS FRIEDRICH BECKER, ET AL

By

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

9 December 1946 - 0950 hours to 1700 hours - PAGES 7776 - 7845, INCL.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
HUEBEL, ARTUR			7777	7792	7795
KILB, HERMANN ALEXANDER	7797		7805 7807	7807	7803 7806
OHNWEILER, KURT			7808 7813 7816	7812	7813
RUELICKE, WILLI	7816	7836	7838 7841 7842 7844	 7843	7840 7841

EXHIBITS

NONE

Camp Dachau, Germany
9 December 1946

WORKING SESSION

(Thereupon the court reconvened at 0950 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all the members of the court are present; all the members of the prosecution, with the exception of Mr. Denson and Mr. Pinter, who are absent on business of the prosecution; all the members of the defense, with the exception of Mr. Hall, who is absent on business of the accused; all of the accused are present, with the exception of Lipinski, Losch, Oswalt, Ausfeldt, Bisbusch, Wurst, Ginschel and Achen, who are ill, and Dr. Schmitz, who is conferring with the counsel, the interests of the absent accused being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave.

PRESIDENT: Mr. Berkowitz, can you give the court some explanation or reason for the delay in opening court this morning?

MR. BERKOWITZ: May I call upon Colonel Wilson to give that explanation? He is more familiar with it.

PRESIDENT: All right, Colonel Wilson.

COLONEL WILSON: If it please the court, the delay this morning is due to certain changes in the personnel of Bunker I whereby the usual methods of obtaining witnesses from there have had to be carried out by inexperienced personnel.

PRESIDENT: Colonel Wilson, I wish you would take that matter up with the proper authorities so that a situation like this won't occur again. The court is trying to expedite this case in every way possible and the court can't see any real reason for this particular delay. Of course, the court is not blaming the senior defense counsel, but somebody is at fault and should get to the bottom of it and remedy the matter.

COLONEL WILSON: Sir, I understand that the entire security

personnel set-up of Post Dachau has been changed.

PRESIDENT: As far as I can see, that is the responsibility of the Post Commander.

COLONEL WILSON: I understand, sir, the Post Commander has an entirely new battalion assigned him.

PRESIDENT: He is still responsible. All right, let's proceed.

DR. ENGELHORN: Defense calls as its first witness Artur Huebel on behalf of accused No. 1, F. Becker. This witness has been interrogated by this court and has been sworn.

PRESIDENT: Huebel, the court cautions you that you are still under oath.

WITNESS HUEBEL: Yes.

PRESIDENT: Proceed, Dr. Engelhorn.

ARTUR HUEBEL, recalled as a witness by the defense, having been previously duly sworn, resumed the stand and testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Mr. Huebel, where do you reside?

A I used to reside in Tetschen Bodenbach in the Sudetenland.

Q And where are you at the present time?

A Camp Dachau.

Q Are the American authorities holding you?

A Yes.

(At this point Mr. Hall joined the staff of the defense counsel.)

Q You have been instructed that any incriminating questions you do not have to answer.

A That is known to me.

Q When were you in Flossenburg?

A From the 15th of March 1944 until the 20th of April 1945.

Q In what capacity were you there?

Re-
(Huebel-Direct)

A First I was in the labor commitment office; then I was in Department 3.

Q Were you a member of the SS?

A Allgemeine SS.

Q What rank?

A I was candidate.

Q From when until when were you in the labor commitment office?

A From the 15th or 18th of March '44 until about June.

Q Who was your successor?

A Sergeant Becker.

Q Would you still know him today?

A Yes.

Q Point him out, please, if you can see him.

A No. 1 (indicating).

DR. ENGELHORN: Let the record show the witness has indicated the accused Friedrich Becker, No. 1.

PRESIDENT: The court will take the usual recess at the present time, but this recess period will be cut down fifteen minutes. Now, Colonel Wilson, will you notify the court just when the prisoners are back in the dock.

(Whereupon the court recessed at 1000 hours and reconvened at 1015 hours.)

PRESIDENT: Court will come to order.

MR. BARKOWITZ: May the record show all members of the court are present; all the personnel of the prosecution, with the exception of Mr. Hanson and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense, with the exception of Colonel Wilson, who is absent on business of the accused; all the accused are present, with the exception of Lipinski, Losch, Oswalt, Hussfeldt, Eisbusch, Hurst, Ginschel, Watzke and Zachen, who are ill, and whose interests are being taken care of

by counsel. The witness is reminded he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Dr. Engelhorn, proceed.

ARTUR HAUBEL, recalled as a witness by the defense, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter as follows:

REDIRECT EXAMINATION (continued)

QUESTIONS BY DR. ENGELHORN:

Q Please describe your work in the work commitment division. What did you have to do there?

MR. BERKOWITZ: Objected to as immaterial and irrelevant as to what this witness had to do.

PRESIDENT: Objection overruled. This man was a predecessor of Becker and can enlighten the court more or less as to the duties of Becker.

A The main activity in the work commitment office was assigning the prisoners who were referred to that office to work according to their various professions.

Q How did the work commitment office get ahold of the names of the prisoners?

A The political department received the prisoners and sent cards on all the prisoners to the work commitment office.

Q What was the procedure from then on after someone was reported?

A The prisoner was recorded in the card index file according to his profession.

Q Were new arrivals examined by the doctor?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

Q How did they determine the working ability of a new arrival?

A A medical examination was made to determine whether the newly

arrived prisoner was capable for certain kinds of work.

Q Do you know anything about what procedure was taken when a prisoner was sent to a work detail on the outside?

A I would like to beg you to state your question a little more precisely. I don't know exactly how I should answer that question.

Q Well, let's assume that prisoners in the camp were sent to a work detail outside the camp. What happens to them then?

A The names of the prisoners in the card index file are picked out according to professions and according to the working strength which was asked for. And at the end they were examined to see whether they could perform the desired work.

Q And if they pass for the desired work, what then?

A Then the prisoner can be sent to the work detail.

Q Please describe the procedure when a certain firm asks for a prisoner as working strength.

A A firm which was asking for a prisoner to work for them had to make an application in Group D in Oranienburg first of all, and Oranienburg would send a note to the camp in question, that is, in this case it would be Flossenburg; and as a result of that the commandant of the camp would make an investigation of the place where the prisoner was supposed to work and check the quarters of the man, where he would be quartered, what food he would get, and the sanitary conditions.

Q And what happened then after the commandant of the camp had done that

A Then the commandant of the camp would draw up a report and sent it back to Oranienburg for their notice.

Q What happened then?

A In case that the necessary working conditions were fulfilled, that is to say, the quarters, the food and the sanitary conditions were all right, then Oranienburg would approve the request.

Q What did the commandant do then?

A As a result of a notice which would then come from Oranienburg, either by telegram or by letter, the necessary number of prisoners would be sent to this work detail.

Q Can you tell us anything about who took part when the prisoners marched away—who was there.

A The commandant of the camp was the highest authority, the final authority, and he would take a look at the transport before the transport marched away.

Q Did the firm which asked for those prisoners always get the exact number of prisoners they asked for.

MR. BIRKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

Q Did it happen that there were less prisoners available than were asked for?

MR. BIRKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

Q Were you ever personally present when people were drawn up in order to form a transport?

A Yes.

Q Please tell us what happened then.

A I beg you to make your question more precise and refer to a particular incident.

Q Well, you said that you were there on one occasion or another. Please tell us what happened then.

A Well, will you please tell me more about what you want me to say. I can't concentrate on any particular incident.

Q Hebel, you said you were present on an occasion when a transport was formed. Please tell us now what happened then.

A When a transport was formed the prisoners were examined medically;

they were given the proper clothing, and then the transport was formed and made ready to go.

Q Did it ever happen that the commandant or the adjutant ever intervened there?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Object on sustained. Doctor, if you should use the term "explain to the court" or a similar phrase of that nature I think it would assist you as far as leading questions are concerned.

Q Would you explain to the court if it ever happened that there weren't enough people there in order to make this transport.

MR. BERKOWITZ: If it please the court, despite the change in phraseology, it is still a leading question and I object to it.

PRESIDENT: The court appreciates that fact, Mr. Berkowitz, but the defense counsel is having considerable difficulty in getting the necessary information from this particular witness.

MR. BERKOWITZ: If it please the court, I object to any question, no matter what form, in which words are put into the mouth of the witness. If counsel wants to ask the witness to explain what happened when the transport was formed I think there is no difficulty in getting any answer, unless the counsel really wants to put those words into the witness' mouth, which he is attempting to do. I renew my objection.

PRESIDENT: The objection is sustained.

Q Herr Muebel, what took place in regard to the number of prisoners who had been asked for in this transport?

A Well, it happened like this: If a firm asked for a rather large number of prisoners or a number of specialists and there weren't enough in the camp then the necessary workers would be drawn from other camps or from other commandos, other work details, respectively; and it often happened that there weren't enough people in the camp to fill the necessary quota which had been asked for.

Q Please tell the court whether it ever happened that there weren't enough suitable prisoners in the camp to do the work which was asked for.

MR. BARKOWITZ: Objected to as leading.

DR. ENGELHORN: I will have to make a remark to that.

PRESIDENT: Proceed, Doctor.

DR. ENGELHORN: German witnesses are not used to this American procedure here when they are being interrogated. When Germans hold court then every witness is asked exactly about every fact with which he is concerned. When I constantly have to make detours according to American procedure then the witness doesn't know what is going on, and I beg the court to take that into consideration.

PRESIDENT: Doctor, that is neither here nor there. Of course, the court appreciates your situation, but this is an American court and we will follow American procedure. What the court is referring to is the procedure laid down by the Military Government. The objection is sustained.

Q Do you know anything about a transport which went to Auschwitz?

A No, I don't know of any transport which went to Auschwitz.

MR. MCKAY: If it please the court, due to the technical difficulties I am going to help Dr. Engelhorn by taking over his examination.

PRESIDENT: All right, proceed.

REDIRECT EXAMINATION OF ARTHUR HUEBEL (continued)

QUESTIONS BY MR. MCKAY:

Q Mr. Huebel, you testified that the commandant was the supreme authority when these transports were formed. I would like to have you explain to the court just what part the commandant played in forming a transport to go to an outside detail.

A The commandant gave an order that the transport would be formed, and at the end he gave the word that the transport could move away.

Q Now, at the actual time that the transport was formed to leave the camp, will you explain to the court what persons from the camp itself

Re-
(Huebel-Direct)

were present at that time.

A The transport was formed by the work commitment office section.

Q But when the transport was ready to go out, what personnel from the camp itself were physically present at the time the transport was formed to leave the camp to go to the outside detail?

A There would be somebody from the work commitment office; in this case it would be Sergeant or the SS Becker, and he would have to report to the adjutant or the commandant and tell him that the transport was already to go.

Q Now, in your prior testimony you testified that at times there was not enough personnel to go out on a detail. Will you explain what, if anything, the adjutant would do under those circumstances.

MR. BRAUTIGAM: Objected to as repetition.

PRESIDENT: Objection overruled.

A I can remember two cases where there weren't enough prisoners available to fill the quota.

Q What happened then as far as the adjutant was concerned?

A The following things happened: The work details were not allowed to march off to work in the morning, and the commandant, accompanied by the adjutant, went around and visited the various work details and picked out the necessary men. And I remember another occasion on a forenoon, the prisoners who weren't belonging to a steady work detail, didn't have steady employment, had to march back into camp or else they were inspected, respectively, and various ones were picked out from this group.

Q Who conducted that inspection?

A The commandant of the camp; but I remember that even at that the commandant didn't get enough people to fill the quota.

Q Now, will you explain what, if anything, the representative of the work commitment office had to do with the selection of these prisoners from other details.

Re-
(Huebel-Direct)

A The representative of the work commitment office looked in his card index file and picked out the prisoners according to professions and told them to get ready to be examined by the doctor.

Q Well, now, will you explain what, if anything, was done with regard to classifying prisoners in the work commitment office according to their physical capability?

A In the hospital a classification was undertaken and the prisoners were split up into different groups according to their physical abilities, and the diagnosis of the doctor in regard to the state of health and the physical strength of each individual prisoner were recorded in the card index files.

Q At the time that the adjutant or the camp commandant made these selections of prisoners to complete the detail, will you explain what, if any regard, he gave to the physical classification of the prisoner carried in the work commitment office.

A It didn't matter what kind of prisoners were selected for this outside detail, everyone of them had to subject himself to a physical examination to determine whether he could do the work required.

Q Well, will you explain to the court what, if anything, was done with regard to the physical examination of these prisoners that the commandant would pick out to fill up the detail when there wasn't enough to fill it up?

MR. BERKOWITZ: The question is objected to. There is no testimony that these prisoners who were selected by the camp commandant were examined by the physicians.

MR. MCKAY: That is just the purpose of the question. I asked him what, if anything, was done.

MR. BERKOWITZ: If it please the court, the testimony is that those who were selected by the work detail office were given a physical examination. There is no testimony that the others were.

PRESIDENT: Objection sustained.

Q These prisoners which the commandant picked out himself—did the labor commitment office have anything to do with their selection at the time?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

Q Will you explain what occurred at the time of a transport, if you know, when there weren't enough physically capable prisoners to fill the detail.

MR. BERKOWITZ: Objected to unless the procedure is limited to the time that the defendant Friedrich Becker was leader of that office.

PRESIDENT: Mr. Prosecutor, this particular witness is testifying as to the duties in that respective office, and he was followed in office by No. 1, Becker.

MR. BERKOWITZ: Yes, sir, but this goes to something which was outside his office and unless it is relevant as to time it is objected to.

PRESIDENT: Objection overruled.

A What was the question.

PRESIDENT: Repeat the question, reporter.

(Whereupon the reporter read the last question.)

A In this case that fact was reported to Oranienburg in the form of a report and the necessary prisoners were brought in from other camps according to written orders. When I say "According to a written order" I mean that the prisoners were not directly brought to Flossenburg but were sent directly to the area where they were needed.

Q Now, Mr. Huebel, you stated that prisoners were given a physical examination that was entered on their card. I would like to have you explain just what the labor commitment office had to do with the conduct of these physical examinations, if any.

A They didn't play any part in that. All they had to do was

determine which prisoners were capable of doing a particular work which was asked of them, and those prisoners who were not capable of doing this particula work would be turned into the hospital.

Q During the time that you were in the labor commitment office will you explain whether at the time of the actual physical examination of prisoners any represe tative of the labor commitment department was present during the physical examination.

MR. BERKOWITZ: If it please the court, I object to the constant coaching of this witness in the form of leading questions. I again object to a leading question.

PRESIDENT: Objection sustained.

Q Will you explain, Mr. Huebel, just how the re ort of the prisoners' physical examination was handled prior to the time that it came to the labor commitment office, if you know.

A There wasn't actually a report. The thing in question here is a list of the vario s people and their classifications according to what work they should receive.

Q And what was done with this list in the labor commitment office?

A This list was kept in the work commitment office and notations from this list were made in the various card index files.

Q From where did this list come, or where did it originate?

A From the hospital.

MR. MCKAY: Dr. Engelhorn will carry on.

QUESTIONS BY DR. ENGELHORN:

Q Huebel, who was your immediate superior in that time when you were working in the work commitment office?

A The adjutant, First Lieutenant Baumgartner, was my immediate superior at that time.

MR. MCKAY: Let the record show that the accused Matzke and Pachen have returned to the dock.

QUESTIONS BY DR. ENGELHORN (Continued)

Q What activity did Baumgartner have in the work commitment office?

A He did take an interest in the activity in the work commitment office and everything had to be presented to him.

Q Who signed the mail which went in and out of the work commitment office

A The mail was signed by the commandant of the camp or the adjutant of the camp, usually by the commandant.

Q Besides the commandant or the adjutant, was anyone else allowed to sign for the mail?

A No, nobody else was allowed to do that.

Q Please tell the court whether you know anything about a transport which went off to Auschwitz either during the time when you were there or the time when Becker was there.

A I never heard of a transport going to Auschwitz.

Q Please tell the court, anything you know about a transport which went to Bergen Belsen.

A As far as I know, two transports went to Bergen Belsen.

Q Can you tell us in what period of time that took place?

A The winter between '44 and '45; I can't tell you the exact month.

Q What kind of prisoners were picked out for this transport?

A People who were not capable of working were with this transport, that is to say, sick prisoners.

Q And who picked out these prisoners?

A As far as I know, the hospital selected these prisoners.

Q Mr. Huebel, what was the name of the adjutant?

A First Lieutenant of the SS Baumgartner.

Q Please tell the court what kind of a camp Bergen Belsen was.

MR. HALL: I object to that question as being immaterial to the trial of the issues before this court.

MR. BERKOWITZ: I believe it is material, but I believe it calls for a conclusion on the part of this witness unless proper groundwork is laid; unless they show that he knew what Bergen Belsen was.

DR. FLOELHOWN: I have the following to say in answer to that: The accused Becker is being accused of the fact that he was supposed to have sent transports off to Bergen Bensel and that Bergen Belsen was regarded as an extermination camp, and for that reason I have great interest in proving what kind of a camp Bergen Belsen was.

PRESIDENT: Court will go into closed session in the court chambers.

(Thereupon the court was closed at 1107 hours and reopened at 1120 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all members of the court and other personnel who were present at the time of the closing of court are now present. The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave.

MR. HALL: If the court please, I should like to make a brief statement to clarify my position in the matter.

PRESIDENT: Make it brief.

MR. HALL: The question was as to what kind of a camp was Bergen Belsen. I would like to remind the court, if I may, that the prosecution witness Kurt Goltz spoke of the common reputation of Bergen Belsen as being bad. That was denied by the prosecution witness Dr. Giesecki. If he must talk about Bergen Belsen, I respectfully suggest that it should be limited to the reputation it had in Flossenburg at that particular time and not as to what kind of a camp it was in fact.

PRESIDENT: All right, Mr. Berkowitz. Make it short.

MR. BERKOWITZ: My objection was not as to the materiality of the question but the groundwork or the basis for the witness' knowledge.

PRESIDENT: The objection of Mr. Hall is sustained. The objection of the assistant prosecutor is sustained. Proceed, Doctor.

REDIRECT EXAMINATION OF WITNESS ARTUR HUBEL (Continued)

QUESTIONS BY DR. ENGELHORN:

Q Please tell the court what official designation the camp of Bergen Belsen had.

MR. HALL: I object to that question also for the same reason.

DR. ENGELHORN: I am merely asking in regard to the name which this camp had.

MR. HALL: If the court please, that isn't the way the translation came out.

PRESIDENT: Reporter, please repeat the question, and then, interpreter, repeat the question to the witness to be sure that the word "official" was indicated.

(Whereupon the reporter and interpreter did as requested.)

DR. ENGELHORN: Yes, I asked what official designation Bergen Belsen had.

PRESIDENT: The objection of Mr. Hall is overruled. The only thing, interpreter, the court wants to be very certain that this witness understands the term "official".

INTERPRETER: Yes, sir, that was included in Dr. Engelhorn's German question.

PRESIDENT: All right, proceed.

MR. BERKOWITZ: If the court please, may the record show the return of Fischbach, Wurst, Russfeldt and Ginschel to the dock.

REDIRECT EXAMINATION OF WITNESS ARTHUR HUEBEL (Continued)

QUESTIONS BY DR. ENGELHORN:

A Bergen Belsen had the official designation "Sojourn Camp, Bergen Belsen" and later on it had the name "Concentration Camp, Bergen Belsen". I, myself, don't know anything about the camp; I didn't see it.

Q When was that later changed?

A That was in the spring of '45, that is to say, in the last months; it might have been March—I don't know the exact month.

DR. ENGELHORN: No further questions.

PRESIDENT: Any further direct-examination on the part of defense?

MR. O'CONNOR: Yes, sir, I have a couple of questions of behalf of the accused Blomberg, No. 4.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Huebel, I hand you a copy of a document described as Prosecution Exhibit No. 84 and ask you to examine it and state to the court what it is.

A That is a punishment order.

Q Can you tell the court what department was charged with the responsibility of compiling the information which appears in a document such as that?

A At this time I wasn't in Flossenburg yet.

Q Well, were documents of this kind used at the time you were in Flossenburg?

A Yes, there were documents.

Q Well, what department was charged with the responsibility of compiling the information contained therein?

A That went out from the office of the commandant of the camp.

Q What department was he in?

A The camp commandant? He had charge of the whole camp.

Q Can you tell the court at what time, if any time, documents such as

this, Prosecution Exhibit No. 84, were sent to Department 2?

A Then the document was put to the records.

Q Did they have any other function in connection with a document of this kind—Department 2?

A Yes, they had the documents of the individual prisoners.

Q What did they do with the document?

A They were pasted into the folders which each individual prisoner had according to their names.

Q Is that all?

A I don't believe anything else; I don't know anything else about Department 2.

MR. O'CONNOR: That is all, sir.

PRESIDENT: Cross-examination.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Huebel, were you familiar with the fact that the trip to Bergen Belsen was generally known as the "Himmelfahrt" or the "Trip to Heaven"?

A No, I didn't know about that.

Q You never heard that?

A No, on the contrary I always understood that this camp was a camp where prisoners who were sick and weak could recover.

Q Did you ever hear of any prisoners coming back from Bergen Belsen who had recovered there?

A No, I don't know anything about that; I don't believe any ever came back to Flossenburg.

Q Now, these two other occasions where there were insufficient number of men to fill a requisition for laborers, did these occasions occur during your tenure of office as work commitment leader?

A Yes, when I was in Flossenburg.

Q And do you know what was done in the work commitment office after June 1944 when you were released from that job?

A It was conducted in a normal manner, just as always.

Q Did you remain in that office after you were released?

A No, I didn't stay there.

Q What position did you get in 1944?

A I was clerk in De Artment 3.

Q Now, Mr. Hiebel, wasn't it the function of this camp to get work out of the prisoners?

A I don't understand the question.

Q Wasn't the commandant of the camp charged with the responsibility of making the prisoners work?

MR. MCKAY: The question is objected to in its present form for it is vague and indefinite. It doesn't designate what camp the prosecution is referring to.

PRESIDENT: Objection sustained.

Q Mr. Hiebel, wasn't it the function of the commandant of Flossenburg to get work out of the prisoners of Flossenburg and out of the prisoners of the outcamps.

MR. MCKAY: If it please the court, the question is objected to first, because it calls for a conclusion of the witness, and, second, because it exceeds the scope of direct-examination inasmuch as it has no bearing upon the issues as pertains to the accused Becker or Blomberg, for which this witness has testified on direct-examination.

MR. BURKOWITZ: May I answer that, sir?

PRESIDENT: All right, make it brief.

MR. BURKOWITZ: This witness was called to testify as to the operation of the office of the work commitment department, its function and its operation and so testified on direct-examination. I am now cross-examining him about that very thing. If the witness doesn't know, he may

so reply.

DR. ENGELHORN: I object to the question because it is a repetition. The witness has gone into a detailed description of the procedure followed when, for instance, various firms demanded prisoners as working materials.

MR. BERKOWITZ: I am not asking about the details of one particular instance, I am asking about the functions of the office which he operated.

PRESIDENT: But your question refers to the camp commandant.

MR. BERKOWITZ: Yes, sir, and my question refers to the operation of the camp and to that department. I am laying the basis for further questions.

PRESIDENT: The objection of Mr. McKay is overruled. The same applies to the objection of Dr. Engelhorn. All right, proceed.

RECROSS EXAMINATION OF WITNESS ARTUR HUEBEL (Continued)

QUESTIONS BY MR. BERKOWITZ:

Q Answer the question, please.

A This order came from a higher authority.

Q And was the commandant charged with carrying out that order?

A I only can assume that. I don't know for sure because I wasn't commandant of the camp and I don't know what orders he got but he only could have carried out orders he got from higher authority.

PRESIDENT: Mr. Berkowitz, the court feels we are wasting time on questions of that order. Naturally the camp commandant would be required to carry out orders. The court will take judicial notice of something of that nature.

Q Did the camp commandant carry out that function of his office through the work commitment office and through the physician?

A Already at the beginning I explained the channels, the official route.

Q Will you answer my question, please.

A Then I will have to repeat what I already said. When the order

Re-

came from Oranienburg the prisoners were selected and were submitted according to professions by the work commitment office; then they were examined by the doctor and sent to work.

PRESIDENT: Just a minute. That is enough; that is repetition.

Q And that was the way the system of the camp worked, is it?

A Yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

DR. MEGELHORN: No thanks, no questions.

PRESIDENT: Questions by Mr. O'Connor?

MR. O'CONNOR: No questions.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q You mentioned that prior to going on these transports the prisoners were given a physical examination.

A Yes, this physical examination took place either on the same day they marched away if it were a small transport, or on the day before if it were a big transport.

Q Well, was that physical examination performed at the request of the labor commitment office or was it simply a routine matter as far as the thing was concerned?

A That was a general rule and only those prisoners were allowed to be put to a new work who were physically in top shape.

Q Was that procedure always carried out? The court is referring to this physical examination.

A As far as I know that procedure was always carried out.

Q Well, did that same procedure apply to assignments of work within the camp itself? For instance, the court is referring to the stone quarry or

the Messerschmidt factory.

A Yes, those prisoners who worked in those places had to be capable of doing the work.

Q And they were given physical examinations before they were sent to those various works such as the stone quarry or the Messerschmidt factory as examples?

A Yes.

Q Did Becker have any authority to send men out on assignments of that nature without physical examinations?

A As far as I know he didn't have any such authority. Every prisoner that was set aside to get a new assignment had to be approved of either by the camp commandant or the camp adjutant.

QUESTIONS BY COLONEL SKIELVING:

Q Did they ever change the physical classification of a prisoner during his time in Flossenburg?

A Yes, if a prisoner became sick and couldn't work any more then a change in classification occurred.

Q Well, suppose some of them were sick or had an injured leg or something of that sort and they had been rated low, when they recovered were they given a higher rating then?

A Yes, after he had left the hospital and was sufficiently recovered physically to work then he would be changed back again.

Q Who made these changes?

A The doctor.

Q Anyone else ever make any of the changes?

A Only the doctor.

QUESTIONS BY PRESIDENT:

Q Just who was responsible for making the changes on the record in case of a change in classification of the physical condition of the prisoner?

(Siebel-Court)

A This remark, this order, would come from the hospital and a corresponding change would be made in the lists in the card index file.

Q And what department was responsible for that?

A From the hospital directly to the work commitment office.

QUESTIONS BY COLONEL SKINLVIC:

Q Did necessity ever demand that the standard upon which the physical classification was based ever came about during the time you were in Flossenburg?

A I can't judge that; that is a matter which concerns the doctor.

PRESIDENT: Further questions by members of the court? Apparently not.

DR. ENGELHORN: No questions.

MR. O'CONNOR: No questions.

PRESIDENT: Recross?

MR. MARKOWITZ: Nothing further.

PRESIDENT: The court understands the defense is finished with this witness.

DR. ENGELHORN: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. MCKAY: Defense calls as its next witness Hermann Kilb, who will testify on behalf of the witness Rocker, No. 1.

HERMANN ALEXANDER KILB, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Mr. Kilb, please give us your full name.

A Hermann Alexander Kilb.

Q How old are you?

A 50 years old.

Q Are you married?

A I am married.

Q Where is your ordinary residence?

A Frankfurt on the Main River.

Q Where are you presently located?

A In the hospital.

Q Are the American authorities holding you in arrest?

A Yes.

PRESIDENT: You are advised that if you should be asked any question which might tend to incriminate you that you have a right to ask the court to refrain from answering that particular question. The court understands that you are a hospital patient at the present time?

WITNESS: Yes.

PRESIDENT: All right, proceed, Doctor.

Q Are you in such physical shape that you can stand an interrogation?

A Yes.

Q What is wrong with you?

A I am in the hospital because of undernourishment.

Q Were you ever in Flossenburg?

A Yes.

Q When?

A From September '39 until August '44.

Q In what capacity were you at Flossenburg?

A I was a specialist in the food department.

Q Were you a member of the SS?

A Yes.

Q Did you have any rank?

A I became a first sergeant after being promoted a number of times.

Q You said that you were in Flossenburg until August '44. Where did you go then?

A I was ordered to Chemnitz.

Q In what capacity?

A I opened up a food camp there.

Q Please explain what this food camp was.

A In that area there were a number of working details at work and I had to provide the guards with food.

Q What work camps were you concerned with?

A There were the work camps Plauen, Zwickau, Chemnitz, Dresden and Zschopau.

Q What kind of a camp was Zwickau?

A Zwickau was a camp near the horch works, an auto factory.

Q How big was this camp?

A I estimate a few hundred men; I can't tell you exactly.

Q What kind of work did the prisoners have to do who worked in this Horch factory?

A The way I heard, they had to assemble motors.

Q Can you explain what kind of work that was?

MR. BERKOWITZ: Objected to until some materiality is shown.

DR. ENGELHORN: What I am driving at is whether the people had to do a hard work there.

PRESIDENT: You are referring to Zwickau?

DR. ENGELHORN: Yes.

PRESIDENT: An outcamp of Flossenburg?

DR. ENGELHORN: Yes.

PRESIDENT: Well, Doctor, are you planning on connecting up this material with the accused Becker, No. 1?

DR. ENGELHORN: Yes.

PRESIDENT: Doctor, the court would like to have you indicate the materiality of this particular testimony—referring to your last question.

MR. EDELHORN: I asked this question because the accused, No. 1, Becker, is accused of having sent prisoners out to do very heavy work and they weren't physically capable of doing this work.

PRESIDENT: The court understands, Doctor, from your statement, then, that Becker had orders to send these men out to this particular camp?

MR. EDELHORN: Yes.

PRESIDENT: The objection of the prosecution is sustained. Court will recess until one-thirty this afternoon.

(Whereupon the court recessed at 1200 hours.)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours)

PRESIDENT: The court will come to order.

MR BERKOWITZ: Let the record show, may it please the court, that all the members of the court are present; all the members of the prosecution are present with the exception of Mr Denson and Mr Pinter who are absent on business of the prosecution; all the members of the defense are present; all the accused are present with the exception of Lipinski, Losch, Oswalt, and Neye, who are ill and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess in place).

PRESIDENT: The court will come to order. Now, after full and due consideration of the facts in the case, the court overrules the last objection of the assistant prosecutor. Is that clear, Dr Engelhorn? Proceed, Dr Engelhorn.

HERMANN ALEXANDER KILB, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION.

QUESTIONS BY DR ENGELHORN:

Q What kind of work did the prisoners in Zwichau do?

A They assembled motors.

Q Did you have a personal opportunity to go to Zwichau?

A I was about every two weeks in Zwichau.

Q Did anything unusual take place then?

A There was an air attack in November.

Q November of what year?

A November, 1944.

Q What did you find there?

A I found buildings that were destroyed and destroyed factory halls.

Q Were the buildings also destroyed where the prisoners worked?

A Yes.

Q Could the prisoners continue their work?

MR BERKOWITZ: Objected to as leading.

PRESIDENT: Did he give an answer to that last question?

INTERPRETER: No, sir.

PRESIDENT: The objection is sustained.

QUESTIONS BY DR ENGELHORN:

Q Can you tell us about whether the prisoners did any other kind of work in the work halls there besides assembling motors?

A After the air raid was over all the prisoners were put to work clearing up wreckage.

Q Who ordered the prisoners to clear up the debris?

A The local air raid leadership.

Q What did the work consist of that the prisoners had to do then?

(Direct)

A Mainly they had to remove debris, they had to remove broken stone fragments, twisted girders, everything that was there as a result of the destroyed factory buildings.

Q How long did this work last?

A I can't tell you that. The next time I came that work was finished.

Q Is Zwichau the only outside camp that was affected by an air raid?

A No, most all of the outside camps which I mentioned this morning were attacked by air.

Q Would you tell us if work in these other outside camps, these other factories, was impossible after that?

MR BERKOWITZ: Objected to as leading.

PRESIDENT: The objection is sustained.

DR ENGELHORN: No more questions.

PRESIDENT: Cross examination?

MR BERKOWITZ: No questions.

PRESIDENT: Questions by any member of the court?

EXAMINATION BY COURT

QUESTIONS BY LAW MEMBER:

Q I understand that you stated that you were some sort of food expert in the camp. Just what was your occupation?

A I am a merchant by profession, a clerk, a bookkeeper.

Q Do you know whether Friedrich Becker had anything to do with selecting the prisoners to go to these outside details?

A Not that I know of.

Q Do you know anything about the reputation of this camp at Zwichau, whether it was a very bad place or was it

(Kilb -Court)

a good camp?

A The camp was clean and whenever you went there the prisoners made a good impression on you.

Q How did it compare with Flossenburg camp itself?

A Well, they had the same barracks as in Flossenburg.

Q Were the conditions as good or were they worse than in Flossenburg?

A I believe that they certainly were good.

Q Well, would you say they were better or not as good as Flossenburg?

A I can't judge that accurately because the nature of my duties in the camp was always temporary.

Q About yourself, why do you say you were in the hospital?

A Because of lack of nourishment.

Q How long had you been here in this camp?

A Since July, 1945.

Q You mean that you are in the hospital because you didn't get sufficient food to nourish you here?

A Yes, my condition didn't arise until about one-half year ago.

Q I notice you are here in the court testifying in your pajamas. Don't you have any clothes you can wear?

A All our clothes are taken away from us in the hospital.

LAW MEMBER: I guess that is all.

QUESTIONS BY PRESIDENT:

([illegible]URT)

Q During the time that you were at Zwichau, what were your observations as to the nature of the work these men were performing? The court is referring to the prisoners.

A I very seldom got into these places where people were working.

Q Well, could you say whether or not the work was of a particularly arduous nature or was it routine, or just what was the nature of the work performed by these prisoners, or do you know?

A I don't believe that it was a particularly stremuous work because most of the prisoners were sitting down when they worked. It was a hand work.

Q Can you tell the court how work conditions compared between Zwichau and Flossenburg?

A I very seldom went to the places where people were working at Flossenburg.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DR ENGELHORN:

Q Could you recognize the accused, Becker, if you saw him again?

A Yes.

Q Please look at the gentlemen in the dock and see if you can point him out.

A Here he is. (Indicating) Number 1.

DR ENGELHORN: Let the record show that the witness identified Becker as Number 1. No further questions.

(Redirect)

EXAMINATION BY COURT

EXAMINATION BY LAW MEMBER:

Q How long have you been in the hospital, Mr Aolb?

A For five weeks.

Q Is your food any better in the hospital than it was when you went in?

A No, the food in the hospital has become less in quantity.

Q What do you get to eat there?

A In the morning half a liter of soup and at noon one liter of soup and at night one-half liter of soup, one-third of a loaf of bread, 20 grams of butter and 40 grams of cheese.

Q Are you on a special diet?

A No.

Q Is that thick soup or thin soup?

A Oh, average, moderately thick.

Q It has meat in it?

A Yes, there is meat in it, that is, in the soup we get at noon.

Q And morning and evening?

A No, not in the soup we get morning and evening.

Q Are there any vegetables in the soup?

A Yes, there is vegetables in the soup.

Q You mean morning and night as well as noontime?

A In the morning and the evening we usually have oat flakes or grain in there and at noon we have vegetable soup.

(Kilb-Court)

Q I understand you are some sort of a food expert, is that right?

A Yes, because of my long experience during the years of war.

Q How many calories a day are you getting now?

A I estimate 2,000.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DR ENGELHORN:

Q How high do you estimate the number of calories you got in the bunker before you got to the hospital?

PROSECUTION: If it please the court, I don't object to any questions of that nature being addressed to the witness by members of the court; however, I do think it's immaterial, and I object to questions of that nature coming from the defense counsel.

PRESIDENT: The objection is sustained.

DR ENGELHORN: No further questions.

PRESIDENT: Cross examination?

RECROSS EXAMINATION

QUESTIONS BY MR BERKOWITZ:

Q Mr Kilb, are you familiar with the work done by prisoners in outcamps Leitmeritz, Hersbruck, and Ganacker?

A I never was in Leitmeritz. I never was in Hersbruck.

Q And Ganacker?

A I don't know that either.

(Kilb-Recross)

MR BERKOWITZ: No further questions.

PRESIDENT: Defense?

DR ENGELHORN: No further questions.

PRESIDENT: Questions by members of the court? Apparently none. The court understands, Doctor, that the defense has finished with this particular witness.

DR ENGELHORN: That is correct.

PRESIDENT: The witness will be excused.

(Thereupon the witness was excused and withdrew)

DR ENGELHORN: Kurt Ohnweiler also appears as witness for accused Number 1, Friedrich Becker.

THE WITNESS: I have already been sworn, sir.

PRESIDENT: The court cautions you that you are still under oath. Do you fully understand?

THE WITNESS: Yes.

KURT OHNWEILER, recalled as a witness by the defense, having been previously duly sworn, resumed the stand and testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY DR ENGELHORN:

Q What is your full name?

A Ohnweiler, Kurt.

Q How old are you?

A Thirty-three.

Q Where is your permanent residence?

A In Roumania.

Q Are you a German citizen?

A No, Roumanian citizen.

Q Were you in Flossenburg?

A Yes.

Q When?

A From August, 1944, to April, 1945.

Q How did you get to Flossenburg?

A I was transferred there.

Q From where?

A From Lublin.

Q In what capacity were you in Lublin?

A I was SS man and was in the commandant's office.

Q How did you end up in the SS?

A The Roumanian army turned me over and gave me an order that I should report to the German draft authorities where I was given an examination and drafted.

Q What kind of work did you do in Flossenburg?

A I was working with the card index files in Department 2.

Q Tell the court what Department 2 was.

A All the personal documents and personal affairs of the prisoners were taken care of in Department 2.

Q Did Department 2 have any other name?

A Yes, that was called the political department.

Q Where was the official place of work in this political department?

A It was outside the camp.

Q What kind of work did you have to do in this department 2?

A As I said, I worked with card index files. I would write out the various card index files and keep them in order.

Q Can you tell the court what procedure was followed for the first time in a card index file?

(Ohnweiler-Redirect)

MR BERKOWITZ: Objected to as leading the witness. The witness testified to all this on a previous occasion.

PRESIDENT: The objection of the assistant prosecutor is sustained. If you are going to bring out anything that is material the court will give it consideration, Doctor.

QUESTIONS BY DR ENGELHORN:

Q Please tell the court what procedure was followed when a new transport of prisoners arrived in the camp.

MR BERKOWITZ: That has already been testified to by the same witness, I believe.

PRESIDENT: Did you say "believe", Mr Prosecutor?

PROSECUTION: I don't have the records.

PRESIDENT: To save time the objection is overruled unless you are certain of your point. Proceed.

THE WITNESS: The transport arrived in the camp and then a special advisor of the political department went inside the camp and took down the personal data of the prisoners and also looked for prisoners from the camp as well as from the transport who could do clerical work. And then the cards were drawn up. The file cards and a duplicate was made, one set of the cards would go to the Work Commitment Office and the other to Political Department, Department 2.

Q Who from Department 2 wrote down this personal data?

A It was Sergeant of the SS Strelau.

(Ohnweiler, Redirect)

Q Can you describe what Strelau looked like?

A He was tall, one meter, eighty centimeters, slender, a slender face, dark hair, around 35, 36, 37, I can't tell you exactly.

Q Please tell the court what procedure was followed when a work detail was sent to a place of work outside the camp?

A We got a list of names from the work commitment office and on this list was noted the current number of the prisoners, the number of the prisoner, his last name, his first name, his date of birth and his profession, and on the back side at the end there were numbers given which designated the physical classification of the prisoners.

Q Do you remember these numbers?

A Well, I saw various numbers 1, 2, 3, and 4, and then hyphens after these numbers.

Q Do you know what these numbers represented?

A I asked about that and they told me that the Doctor gave these numbers and the numbers indicated the physical condition of the prisoner.

Q Is it known to you that other prisoners had card index files in Flossenburg who weren't in Flossenburg?

MR BURKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR ENGELHORN:

Q Please tell the court what procedure was followed when a prisoner from an outcamp of Flossenburg went to a different camp?

A Well, the prisoner never came back to the mother camp at all. He was immediately sent to the camp in question, either marched there or transferred there, and then a list would come to us with the name of the prisoner, such and such a prisoner was to be transferred, and this document would accompany him from the old place of work to the new camp.

Q Tell the court if you know anything about a transport which went to Auschwitz.

A No, I don't know anything about that. It didn't happen when I was there.

Q Would you have known about it if such a transport had gone?

A I certainly would have remembered it.

Q Tell the court if you know anything about a transport to Bergen-Belsen.

A I remember a transport that took place between the winter of '44 and '45.

Q What kind of prisoners were involved in that transport?

A I didn't see the prisoners myself, I merely got lists of them and according to these lists we sent away their personal documents.

Q From who did you get these lists?

A We got these lists either from the hospital, the prisoners' hospital or the prisoner clerks' office.

DR. EGELHOFF: I have no more questions.

THE IDGE: Cross examination.

RE CROSS EXAMINATION

QUESTIONS BY MR. BERGOWITZ:

Q Will you tell us again, Mr. Ohnweiler, what was the period during which you were present in Flossenburg?

A August '44 to April '45.

MR. BERKOWITZ: Nothing further.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q How many groups of classifications did you see?

A I can't remember that.

DR. ENGELHORN: No more questions.

PRESIDENT: Nothing further.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Referring to this transport that went to Bergen-Belsen, you mentioned that some of the information came from the hospital. Do you mean by that that some of these men who were on this particular transport were sent directly from the hospital at Flossenburg to the new location?

A I didn't understand the question.

PRESIDENT: Repeat the question.

(Whereupon the interpreter repeated the last question.)

THE WITNESS: I didn't understand that question.

Q What the court wants to find out is whether or not on that particular transport mentioned that men were taken out of the hospital and sent on that transport.

A Well, I don't know anything about that. I never saw a transport formed and I don't know how the people were selected for it.

Q What did you mean when you stated a moment ago that some of the information for the records came from the hospital?

A The list came from the hospital and, according to this list we picked out the various documents and file index cards.

PRESIDENT: Any further questions by members of the court?

Ta 663 12-9-46
pls/14 Floss

QUESTIONS BY LAW MEMBER:

Q What lists came from the hospital?

A We got lists in connection with every transport that left and these lists consisted of the names of prisoners who were away from the mother camp, whether they were in a different camp or an outside camp.

Q Were those the people who were to go to Bergen-Belsen?

A Yes, we also got that list.

Q Who made up that list?

A Well, I don't know anything about that, but I assume that that list came either from the hospital or the camp clerk's office.

Q Do you know anything about the camp itself at Bergen-Belsen?

A Well, I never was there. I only read about it in the newspapers and I did hear there was a hospital in Bergen-Belsen and the people were sent there so they could recover and get well again and be put back to work.

QUESTIONS BY PRESIDENT:

Q Do you know of any cases where the physical classification on the records was changed?

A No, I don't know anything about changes in classification of physical conditions but it did happen that the lists would be changed sometimes, that certain ones would go who were not on the list and certain ones stay behind who were on the list.

Q Do you know what individual in the Work Commitment Office actually handled that matter of placing the physical classification on the records?

A The numbers which referred to the physical classification on the prisoners had to be determined by the doctor.

Q Yes, but what the court wants to find out is just what clerk in the Work Commitment Office placed those classifications on the records.

(Ohnweiler-court)

A There was nothing in the records about the physical classifications.

Q Did you not testify a short time ago that the records contained the physical classifications of the men, 1, 2, 3.

A No, that was on the transport list; the list in regard to the prisoners who were to be transferred had on its back side the physical condition of the prisoners, given in numbers.

Q That is the only time that you know that physical classification of the prisoners was used?

A Yes, when a transport was formed the prisoners were examined by a doctor and there numbers were designated and put on a list.

Q Did that same policy apply to various assignments of work within the camp itself?

A No, not that I know of.

Q Did it apply to assignments to the stone quarry in Flossenburg?

A I don't know that, I can't give you any information there.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SKIELVIG:

Q Ohnweiler, do you know Friedrich Becker.

A Yes, I know him.

Q Could you identify him now if you were to see him?

A Yes.

Q Will you look over into the dock and identify him?

A Here he is, No. 1.

LT. COL. SKIELVIG: Let the record show the witness has identified the accused No. 1 as Friedrich Becker.

Q Did you ever come into contact with him in Camp Flossenburg?

A Well, I often went over there to get information for myself.

Q Did you ever see him when he was picking out a transport?

A The people for the transport were selected in the camp, in the back of the camp, and I was never present when this selection was being made.

(Ohnweiler-resumed)

LT. COL. SKIELVIG: No further questions.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BURCHAM:

When you say the doctor classified them, you are testifying to an assumption or hearsay, is that correct?

A Yes, I am. It is hearsay there because I asked what these numbers represented.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHARDT:

Q What numbers did you see on these transport lists?

A Well, it was like this - there was a No. 1-2, then a No. 2-3, then a No. 3-, I don't remember the other numbers exactly.

DR. ENGELHARDT: No more questions.

PRESIDENT: Recross?

MR. BARKOWITZ: No questions.

PRESIDENT: Any further questions by members of the court? Apparently not. The court understands the defense is finished with this witness?

DR. ENGELHARDT: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. O'CONNOR: If it please the court, the next witness to be called is Willi Ruehlicke, to testify on behalf of No. 46.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

WILLI RUEHLICKE, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q What is your name?

A Willi Ruehlicke.

Q Will you spell it, please?

A R-u-e-h-l-i-c-k-e.

Q Are you being held by the American authorities at the present time?

A Yes.

PRESIDENT: The court understands the status of this man is that of a prisoner?

QUESTIONS BY MR. O'CONNOR:

Q You are a prisoner, are you not?

A No, in the Special Camp.

PRESIDENT: The court understands you are being held by the Americans?

MR. O'CONNOR: Yes, sir.

PRESIDENT: You are advised that should you be asked any question that might incriminate you, you have to right to request the court not to answer that question. You understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Mr. O'Connor.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Ruehlicke, were you a member of the SS?

A Yes.

Q What was your rank?

A I was a Sergeant in the Waffen SS.

Q Were you ever assigned to duty in Camp Flossenburg?

A No, yes, as a trainer.

Q When did you go there?

A The 20th of February '45.

Q While you were there did you ever know Bruno Skierka?

A Yes, he was company leader.

Q Will you look in the dock and see if you can identify him?

A Yes, he's the man up there by the window.

Q Will you point him out?

A 46.

MR. O'CONNOR: Let the record show that the witness has identified the accused No. 46. At this time, if the court please, I would like to have permission to have Mr. Skierka moved down to the front.

PRESIDENT: Any particular reason?

MR. O'CONNOR: It is customary, may it please the court.

PRESIDENT: In other words, you want the opportunity to confer with him from time to time?

MR. O'CONNOR: Yes.

PRESIDENT: Request granted.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Ruehlicke, were you in Flossenburg during the month of April 1945?

A Yes.

Q Did you take part in the evacuation march from Flossenburg?

A Yes.

Q What were your duties?

A It was my duty to show the columns the route and I was standing up there ahead at the intersection.

Q Who gave you those orders to do that work?

A Skierka.

Q On what date did you receive those orders?

A That was on the day they marched away. I believe that was the 20th.

Q Is that the first time that you went on an evacuation march from Flossenburg?

A No. On Monday the 16th we had already marched away without any prisoners.

Q Will you describe to the court what occurred on the occasion of the march on the 16th?

A On the morning of the 16th we marched away from Flossenburg without any prisoners, just with the camp police, and we stayed in a forest between Flossenburg and Neuenhammer.

Q How many men were on that march?

A It could have been between 800 and 1000 men.

Q Please explain to the court the type of person that composed the column.

MR. BERKOWITZ: This evacuation of the camp personnel was on the 16th and any testimony regarding it is objected to as immaterial and irrelevant.

PRESIDENT: The objection is sustained.

MR. O'CONNOR: Do I understand by that, sir, I am not to ask any questions regarding the march of the 16th?

PRESIDENT: Yes, Mr. O'Connor, due to the testimony before the court at the present time that this evacuation march which started on the 16th of April 1945 simply consisted of camp police and possibly some SS men, but no prisoners. The court would like to know if this was an actual evacuation march on the 16th or whether it was a training march. If you get that information to the court, the court will give that matter consideration.

MR. O'CONNOR: Well, sir, the witness Adolf Kuefner testified that an order was passed on by the accused, Skierka, in the forest between Flossenburg and Neuenhammer. This witness has stated in his statement so far that he stayed in a forest between Neuerhammer and Flossenburg on the day of that first march.

MR. BERKOWITZ: If it please the court, the testimony was that the order was given on the occasion of the evacuation of the prisoners. Now, it is true the SS evacuated the camp on the 16th and then came back but that has nothing to do with the prisoners.

MR. O'CONNOR: May I say something further? That is the testimony of Adolf Kuefner but that does not necessarily say it cannot be rebutted.

PRESIDENT: Mr. O'Connor, if you can indicate to the court the materiality of this particular matter, the court will give it consideration.

Mr. O'Connor. Well, sir, I cannot but perhaps this witness can.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. The court will hold this decision with regard to the previous objection on the part of the Assistant Prosecutor in abeyance for the time being and give you an opportunity, Mr. O'Connor to connect this testimony up with the main issue. If that is not accomplished to that satisfaction of the court, the prosecution will have an opportunity to put in a motion to strike.

MR. BUCKOWITZ: Thank you.

PRESIDENT: All right, proceed.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Buehlicke, who comprised the column on the evacuation march of the 16th that you were in?

A On the 16th the column consisted of the guards and the police.

PRESIDENT: Court will recess until 3:30.

(Thereupon at 1500 hours the court recessed until 1530 hours.)

[illegible] the defense, resumed the [illegible] still under oath, testified [illegible] follows:

[illegible]

[illegible]

[illegible] you stated that the guards and [illegible] evacuation on the 16th.

[illegible]

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

MR. BURKOWITZ: If the court please, let the record show that all the members of the court are present, all the personnel of the prosecution are present with the exception of Mr. Denson and Mr. Pinter, who are absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Lipinski, Losch, Oswalt, and Neye, who are ill and whose interests are being taken care of by their respective counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

DEFENSE COUNSEL: May it please the court, the defense requests permission to withdraw the accused Winkler for consultation by counsel.

PRESIDENT: Granted.

MR. BURKOWITZ: The witness is reminded that he is still under oath.

PRESIDENT: Mr. O'Connor.

WILLI RUEHLICKE, called as a witness by the defense, resumed the stand and being reminded that he is still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Ruehlicke, before recess you stated that the guards and camp police made up the column that went out of Flossenburg on the 16th. Is that correct?

A Yes.

Q What personnel made up the camp police?

A The camp police consisted of former prisoners who were released and given new uniforms.

Q How many were there?

A About 400.

Q Did you know a former prisoner in Flossenburg by the name of Adolf Kuefner?

A No.

Q Now you stated that you make a break in a forest between Flossenburg and Neuenhammer. Is that correct?

A Yes.

Q Where is this forest located?

A The whole way from the railroad station of Flossenburg to Neuenhammer goes through forest.

Q What time did you make the break you referred to?

A It was between two and three o'clock in the afternoon, I estimate.

Q What time did you leave Flossenburg?

A In the forenoon.

Q What time?

A It could have been between ten and eleven.

Q How long did you stay in the forest during this break?

A We stayed in the forest until it got dark that evening.

Q Approximately what time was that?

A It could have been eight o'clock.

Q Prior to the time you left Flossenburg on this march on the 16th, will you please tell the court what orders, if any, you received?

MR. BERKOWITZ: May it please the court, that question is objected to unless it be orders concerning treatment of prisoners.

PRESIDENT: Objection overruled.

WITNESS RUEHLICKE: We didn't get any orders at all. All we did was make this break. We were supposed to join a unit. We were supposed to go to a fighting unit and then they said we should make a break.

QUESTIONS BY MR. O'CONNOR:

Q Who gave that order?

A The order came from behind. I do not know who gave it. I do not know whether it was Skierka or not.

Q Who was the highest ranking officer of the column?

A The column was split up into various companies and company leaders were designated over each company.

Q Who was in over-all command over all the companies?

A It was my opinion, Keegel.

Q Was he present on this march?

A I did not see him.

Q During the time you were in the forest, did you see Skierka?

A Yes, Skierka was near me where I was camping.

Q How often did you see him in the forest?

A Well, I saw him about every minute that afternoon because we were camping together, and he had posted his motorcycle there.

Q What did you see him do?

A Well, he went back and forth, nothing else.

Q Describe to the court what orders, if any, you got from Skierka during the time you were in the forest.

A I didn't get any orders from Skierka at all.

Q Do you know whether he gave any orders to anyone else?

A No. Only towards evening a messenger came from the camp when it was getting dark and brought the order that the outfit should go back to the camp. First of all one company left.

Q Do you know who issued that order?

A No, I can't tell you. I assume it was Koegel.

Q Can you tell the court why the order was issued to go back to Flossenburg?

A Well, I only heard it by way of rumor that the whole camp was in a state of helter skelter because they had only left one part of the camp police there, and I don't know whether they were fearful if there would be a distrubance or a revolution back there. I do not know.

Q Mr. Ruehlicke, please explain to the court what, if anything, happened at Camp Flossenburg upon your return betve n the 16th and 20th with respect to the camp police?

MR. BURKOWITZ: At this time I renew my objection to testimony offered by the witness concerning the evacuation of the camp by the SS and the camp police on the 16th as being immaterial. I ask that all this matter be stricken from the record.

MR. O'CONNOR: May it please the court, I think it is very material because I expect to show by other witnesses--witnesses that have already testified here and who were on this march--that an order was received on this march with the SS and the camp police.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed at 1540 hours in place.)

(Whereupon the court reconvened at 1550 hours in place.)

PRESIDENT: The court will come to order. The objection of the assistant prosecutor is overruled. The court feels this testimony is material. The attention of the assistant prosecutor is called to the previous

testimony of Kuehner at the time he appeared as a prosecution witness and at a later time on the second recall by the defense, indicating that a certain incident transpired on a march between Flossenburg and Neuenhammer.

MR. BERKOWITZ: May I indicate to the court that the testimony concerned a march which was an evacuation march of prisoners and not an evacuation of the camp by the SS.

PRESIDENT: Previous testimony of Kuehner refers to certain orders which are alleged to have taken place.

MR. BERKOWITZ: Yes, sir. The place is the same but the date and the circumstances are different.

PRESIDENT: The court feels that the testimony is material. The objection is overruled. Proceed.

MR. O'CONNOR: Will the reporter repeat my last question.

(Whereupon the reporter repeated the last question as follows:

Question: Mr. Buehlicke, please explain to the court what, if anything, happened at Camp Flossenburg upon your return between the 16th and 20th with respect to the camp police?)

WITNESS BUEHLICKE: I do not know anything that might have happened. It is possible that a number of prisoners were released from the camp in order to join the camp police. I do not know of anything else.

QUESTIONS BY MR. O'CONNOR:

Q Now you stated that you again went on an evacuation march of the prisoners from the camp between the 20th and 21st. Is that correct?

A Yes.

Q Prior to the time that the actual evacuation march commenced, please describe to the court what happened with respect to any orders you received.

A The only thing I got was a directive before we marched away

from Skierka, and he told me that I was to go on ahead and stand at the crossroads and show the route.

Q Did you do that?

A Yes.

Q Please describe to the court what orders, if you know, were given with respect to the prisoners that were going on the march.

A I do not know anything about that. I didn't hear any orders.

Q How many prisoners took part in the march?

A I can't tell you. I can only talk about one column. It is possible that there were about 1500 to 2000 men in this one column.

Q How many columns?

A I know of four columns from hearsay.

Q Can you tell the court what comprised the membership of the various four columns?

A No, I can't tell you that.

Q How many SS guards were on the march?

A That is very hard to say for the simple reason that there were guards from Buchenwald, Gross Rosen, and various other camps, and besides that there were camp police among them.

Q How many camp police were there?

A I can't tell you how many took part there. It is impossible. You didn't even know who was next to you then.

Q Will you tell the court what position in the column the camp police maintained in the march?

A The camp police had the same rights and the same duties as the guards.

Q In what column did the camp police march?

A In all columns, as far as I knew.

Q What time did the march commence?

A Between ten and eleven o'clock. It could have been ten thirty in the morning.

Q Prior to that time, were any orders issued by Koegel, Skierka, or anyone else in the camp?

A I came back from the village about one hour or one-half hour before the march started, and as I came back to the camp, I saw a number of people gathered on the SS Square. I do not know if they were camp police or SS. Koegel was giving a speech, and just as I got to the gate the speech ended.

Q Do you know what he said in that speech?

A No, I can't tell you. The only thing I heard was when they all hollered "Heil". I didn't hear anything else.

Q Can you tell the court where Skierka was during all this time?

A I went past the square there where the people were dispersing. I wanted to go to the top sergeant's office. I wanted to see him, but I didn't go in there because Skierka was in there.

Q In where?

A In the company office.

Q Did you see him there?

A Yes.

Q Now you stated that your order was to go on ahead and direct the route of the first column. How far ahead of the first column were you?

A At the most, I was one and a half kilometers before the column and some of the time I was closer to the column.

Q How far did you get the first day?

A The first day we went to Neuenhammer, ten to twelve kilometers, and later on, ten to fifteen kilometers.

Q Which way from Neuenhammer did you go?

A I can't tell you what direction that was. I don't remember any names of any cities.

Q What time did you make the break the first night?

A About six or seven o'clock in the evening the first night we made a break. That is my opinion.

Q How many breaks did you make during the day?

A We made a break twice.

Q Where?

A Once near Neuenhammer and once between Neuenhammer and the place where we spent the night.

Q During the day did you see Skierka?

A Yes.

Q How many times?

A About twenty to thirty times the first day.

Q How was he traveling?

A With his bicycle.

Q What did you see him doing?

A I noticed that his bicycle broke down near Neuenhammer. I do not know what was wrong with it, but a repair was made on it and brought back to him.

Q When you got to the place where you made a break beyond Neuenhammer, did you see Skierka?

A Yes, that was near Neuenhammer. We went across a bridge over to

the right where there was a meadow. We made a break there, and that is where I saw Skierka.

Q What time was that?

A Between twelve and one o'clock.

Q Mr. Ruehlicke, I am speaking of the time you made a break for the night, ten or twelve miles beyond Neuenhammer.

A I saw Skierka there about seven in the evening, and about one-half hour later he went away to his quarters.

Q Describe to the court what happened when you saw Skierka at the time you made a break between six or seven in the evening.

A Skierka was standing there at a farmers house up on the hill, and when we came up the hill, he told us where we were to go and that that would be our quarters for the night.

Q Where were his quarters?

A This farmers house we are talking about now is on the right side of the street and twenty minutes away as you go through the village, and on the left side is the quarters of Skierka.

Q How do you know those were the quarters of Skierka?

A About nine in the evening I went into the village to see about my baggage. My baggage was on the baggage car on the right hand side of the street. Across the street on the left hand side of the street was the farmers house where Skierka had his quarters. To the left of this farmers house was a small house, and I went in there to wash my feet and put powder on them.

Q Did you see Skierka that evening in his quarters?

A Yes, I saw him, and later on I saw Baumgartner and Keegel arrive by automobile and park on the right hand side of the street near the baggage car, and Skierka went over to them. That could have been ten o'clock.

Q What did Skierka say then?

A Then I went to the small farmers house where I spent the night.

Q What was the hour that you last saw Skierka?

A Around ten or eleven o'clock at night as he was speaking with Koegel there.

Q This is the evening of the first night of the march. Is that correct?

A Yes.

Q During the 25 to 30 times you saw Skierka that day and the times you saw him that evening, did you hear him at any time issue orders to you or to anyone else?

A No, the only directive to me was that I should stand at the crossroad and show the route. I never received any other order, and I never heard Skierka give any other order to anyone else.

Q If Skierka had given an order that prisoners be shot who couldn't keep up with the march, would you have found out about it.

A Well, at any rate, I would have to find out about it.

Q Did you find out about it?

A No.

Q How long did you stay in that location where you stayed the first night?

A It could have been between five or six o'clock the next morning when we marched away again.

Q Where did you go that day?

A We marched further that day. Toward evening we marched along a road and the road went partly through the forest, and as we got to the forest over to the right there was a lake, and the prisoners stopped for the night there at the side of the lake.

Q Did you see Skiezka on the march this second day?

A Yes, I saw him again then.

Q Go back to the first day's march, Mr. Ruehlicke. Can you tell the court where Skiezka marched with respect to your position ?

A Skiezka was ahead of the column, perhaps one kilometer, sometimes more. Then he would drive back and forth. Sometimes he would stand at the street crossing with me and tell me the route we would take--this and that direction--and tell me to pass that on, and then he would drive away again.

Q Can you tell the court what was being done with the prisoners who fell ill or couldn't keep up with the march for some reason?

A As far as I heard, guards would stay back with them and the prisoners would be brought along at the end. On the second day I saw with my own eyes how SS stayed back with prisoners in order to bring them along.

Q How were such prisoners transported?

A I can't tell you how they were transported--whether they had wagons pulled by horses or whether they had wagons pulled by human beings.

Q How many sick prisoners did you see on the second day that were being kept back with SS men?

A It could have been five or six men.

Q Do you know what happened to them?

A No, I can't tell you.

Q How far did you get on the second day's march?

A About 25 kilometers again on this day.

Q About how many times did you see Skiezka on this day?

A I saw him about ten times perhaps. One period of time I had to fall back myself because I had bad feet.

Q Did you see Skiezka on the evening of the second day's march when you were camped by the lake?

A Yes, I remember that the lake was on the right side of the road. On the left side of the road there was a small private house, and next to that private house there was a farmer's house. Skierka spent the night at the farmer's house.

Q Did you see him there?

A Yes, I saw him there because I spent the night at the next farmhouse next door.

Q What time did you see him?

A It could have been about eight thirty, and also in the afternoon when we arrived--about five o'clock approximately.

Q Did you receive any orders from Skierka on the second day?

MR. BERKOWITZ: If it please the court, the defense counsel has been continuously leading this witness all during the course of this interrogation and I have hesitated to object; but at this point I must object to its continuance. I object to the question just propounded as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. O'CONNOR:

Q When you saw Skierka on the evening of the second day, tell the court what happened.

A Nothing happened. I just saw him go by when he went back into the house.

Q Will you tell the court whether or not he issued any orders on the evening of the second day?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. O'CONNOR:

Q What time did you leave the farmhouse on the morning of the third day?

A It must have been very early. It was still dark. It was in the night actually.

Q Where did you go on the third day?

A We marched about 25 to 30 kilometers as usual. It could have been a little more. On the right hand side of the road there was a colony for farming people. Skierka spent the night there at the housing colony. A few meters beyond the housing colony was a small farming section, and the prisoners spent the night there.

Q Did you see Skierka on the third day?

MR. BENEDETTI: Objected to as leading.

MR. O'CONNOR: May it please the court, if I ask a man if he saw a man, perhaps it is a leading question, but if it is it certainly is preliminary.

PRESIDENT: Objection sustained. It is a leading question, Mr. O'Connor. I hardly think that after a witness has been on the stand this length of time that it is a preliminary question.

QUESTIONS BY O'CONNOR:

Q Will you please explain to the court what happened on the third day with respect to Skierka.

A On the third day I got on a wagon and was transported. Skierka read me off because I was sitting on the wagon.

Q Did anything else happen?

A Yes, behind the village in the last house on the left, I saw Skierka's bicycle standing against the wall, and I went in there to drink coffee because the day was so cold. I spoke to Skierka there.

MR. MC KAY: Let the record show that the accused Kaye has returned to the dock.

QUESTIONS BY O'CONNOR:

Q What did you talk about?

A We didn't talk about anything important. We just said that it was cold and that coffee warms you up.

Q Will you tell the court where Skierka stayed on the third night?

A Yes, as I said, Skierka spent the night in the small housing colony. The prisoners were first put on the right of the housing colony and then I believe they were brought over to the left side.

Q Please explain to the court what you saw during the course of this march with respect to escaping prisoners.

A I heard that certain ones were supposed to have escaped but I didn't see any and I don't know about any who might have escaped. I only know that a large number of guards were missing.

Q Approximately how many?

A That is hard to say.

Q How long did you stay in this overnight camping place?

A We stayed there until noon of the next day because I remember we ate midday meal in the farm house and expected to stay there until evening because we were supposed to get some food rations there.

A What happened?

A The trucks were partly unloaded and were supposed to go and pick up bread and potatoes. In the evening Koegel came into the house where I was with the top sergeant Nonnka and that was five minutes away from the house where Skierka had spent the night and that was on the left side of the road.

Q You mentioned Koegel again. Will you tell the court where he marched during the course of this evacuation.

A Koegel was driving around in his automobile--sometimes ahead of us, sometimes behind us. You would see him and then you wouldn't see him.

Q Do you know where he spent the second night--where he was billeted?

A I can't tell you about the second night--only about the first night and the third night.

Q Where was he the third night?

A He spent the third night in the same house where I spent the night on the left side of the road about five minutes away from the house where Skierka was sleeping.

Q When did you resume the march on the fourth day.

A On the next morning between eight and nine o'clock we heard tank guns being fired and Koegel ordered we march away.

Q Where did you go?

A We kept on moving in the direction of Camp Dachau.

Q How far did you get?

A I can't tell you that. I only know later on the whole works was thrown apart.

Q What do you mean by that?

A Well, the way I heard it was that the tanks were firing into the column.

Q What happened to the column?

A I can't tell you.

Q What did you do?

A I was way up ahead of the column. I got up on the wagon on the second day and on the third and fourth day I was still sitting on the wagon.

Q Can you tell the court what location with respect to towns you were when you ran into the American tanks?

A I can't tell you the place where we spent the night. I don't even tell you the place where the tanks arrived. I do not know the names of a single town on the whole march.

Q Approximately how far from Dachau?

A That was still a long way from Dachau. It was--it must have been in the area around Cham.

Q Can you tell the court where Skierka was during this time?

A Skierka was about one or two kilometers ahead of the column standing on the right hand side of the road when I went by in my wagon. There was a small slope, and at the top of the slope Skierka was standing and Monska was standing with two bicycles. Skierka was looking in the direction of the tank guns with a telescope.

Q When did you again see him?

A That was the last time I saw him.

Q What happened to you?

A We kept on moving with our wagon. We reached Dachau and then we marched on to Schliersee and also Tegernsee.

Q Will you tell the court where Skierka went from there?

A No, I can't tell you. I do not have any idea.

Q Mr. Ruehlicke, can you tell the court who it was during the course of this march that gave orders to take breaks and to resume the march?

A I remember, and in the course of testimony I already indicated, that I heard Koegel with my own ears give orders to march away the last day, and during the course of the march Skierka always said, "Here is where we make a break."

MR. O'CONNOR: That is all, sir.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed at 1640 hours in place.)

(Whereupon the court reconvened at 1645 hours in place.)

PRESIDENT: The court will come to order. Cross examination, Mr. Bernovitz.

CROSS EXAMINATION

QUESTIONS BY MR. BERNOVITZ:

Q Now Ruehlicke, when you were asked your rank in the SS, you stated you were Unterscharfuehrer in the Waffen SS. Is that correct?

A Yes.

Q Were you not a Captain in the Allgemeine SS?

A Yes, but I was only asked about the Waffen SS and I gave you my answer.

Q When did you join the SS?

A 1930 in the Allgemeine SS.

Q When did you become a member of the National Socialist Party?

A 1929.

Q Now you have testified about an evacuation march which took place on the 16th of April. Did any prisoners take part in that evacuation march?

A No.

Q Was not that evacuation part of the plan of the commander of the camp for the troops to leave and turn the camp over to the American authorities?

A Yes.

Q And that plan was changed, and the troops marched back?

A Yes.

Q The SS resumed authority over the prisoners when they came back?

A Yes.

Q Then the prisoners were evacuated on the 20th?

A Yes.

Q On the 20th you marched through Altenhammer. Is that correct?

A No, Altenhammer lies way over on the right--off our route.

Q You marched to Neuenhammer?

A Yes, we marched to Neuenhammer.

Q Were you present at the time of the rest between Flossenburg and Neuenhammer?

A Between Flossenburg and Neuenhammer I didn't state we made any break.

Q Didn't you tell the court there was a break about noon of the first day?

A In Neuenhammer.

Q And was it on the second day that you stayed behind because you had trouble with your feet.

A Yes.

Q How many corpses of prisoners did you see on the second day?

A I saw about 40. It could have been a few more or a few less.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Ruehlicke, during the course of this evacuation march that began on the 20th or 21st, will you please explain who it was that assigned guards to duty over prisoners during the course of the breaks?

A The distribution of the guards lay in the hands of either Koegel or the leader of the battalion at that time, a second lieutenant of the SS, Albert.

Q Please explain to the court if you can what Skiewka's duties were in that connection.

A I only know that Skiewka assigned somebody in each column to show the way. These people went partly by foot and partly by bicycle. They had as their duty to show the way so that nobody could go astray.

Q You stated that you saw approximately 40 bodies along the road on the second day of the march. Can you tell the court from what column these bodies were?

A I can't tell you because during the night two or three other columns had caught up with us and I don't know the location of the columns.

Q At the time you saw these 40 corpses, where were you with respect to the front or rear or middle location of the column?

A The column had already marched past me. I had to stay behind to take off my shoes, and later on I caught up with the column. I had already seen these corpses at isolated places during the march before this time. They were all along the whole route.

Q How far behind the column were you when you saw these corpses?

A After we had been 20 or 30 minutes past the village, I saw corpses lying there on the road and that was still at the time when I was in front of the column.

Q Can you tell the court how many you saw in front of the column?

A Well, I can't tell you how many. They were isolated corpses.

Q Did you determine whether or not they were prisoners or SS guards?

A As far as I could see, most of them were prisoners. I could see

that by the striped uniforms they were wearing.

Q Can you tell the court whether any of the approximately 40 corpses that you saw came from your column?

MR. BURKOVITZ: Objected to as leading.

PRESIDENT: Objection sustained.

MR. O'CONNOR: That is all, sir.

MR. HALL: I would like to ask a question on behalf of one of the accused.

QUESTIONS BY MR. HALL:

Q Do you know a Sergeant Gergel?

A No, I don't know a Sergeant Gergel.

PRESIDENT: Recross?

MR. BURKOVITZ: Nothing further.

PRESIDENT: Questions by any members of the court?

(Ruehlicke-Redirect)

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Can you tell the court from what columns these 40 corpses came from that you saw?

A No, it was impossible for me to tell.

Q You mean you don't know whether they came from Skierka's column or not?

A I can't tell you whether they came from Skierka's column or whether they had come from other columns which had already overtaken us.

QUESTIONS BY THE PRESIDENT:

Q You were speaking about the corpses you happened to see when you were at the rear of the column. Is that the case?

A Well, on one occasion I stayed behind and caught up with the column later.

Q You mentioned that during the period when you were behind the column you noticed certain corpses. Can you tell the court whether these corpses came from Skierka's column or from another column?

A No, I can't tell you that either.

Q Now this march that started on the 16th of April, was this an evacuation march or a practice march or what?

A It was neither an evacuation march nor a practice march. It was a transfer of troops to a fighting position. The guards and part of the camp police were supposed to be transferred to a new fighting unit and not come back to camp at all.

Q Later they were recalled to the camp, is that the idea?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Buehlicke, will you explain to the court just what you heard during the course of the march with respect to shooting in your column?

A Some of the time American bombing planes were shooting and as far as I heard, the guards shot back at them, and they were probably the chief shots which were fired during all of the time.

Q Did you hear any other shots?

A Yes, I heard some isolated rifle shots.

Q Can you tell the court where they came from?

A No.

PRESIDENT: Recess?

MR. BENKOWITZ: Nothing further.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Do I understand that these shots from the planes were being fired into your column?

A They didn't shot directly at the column, but directly ahead of the column was a village and this village was under fire. They were shooting at this village with guns, and I believe, dropped some bombs also. At any rate, they strafed it heavily with machine guns and some of the houses in this village were totally burned out.

Q The column itself was not strafed?

A At any rate it was not shot at when I was there.

QUESTIONS BY LT. COLONEL SKIELVIG:

Q You previously testified that you had seen Skierka on any number of occasions during the course of this evacuation march. Was he armed at any time?

A Yes.

Q What was he armed with?

A With a machine pistol.

Q Anything else?

A I can't tell you whether he had a pistol or not or whether he carried one. At any rate he had a machine pistol.

QUESTIONS BY THE PRESIDENT:

Q Did you see him use this machine pistol on anyone during the course of this march?

A No.

Q The court understands that you have testified that you neither saw nor heard any shooting during the course of this evacuation march outside of a few isolated shots. Is that correct?

A Yes.

Q And further, that you couldn't determine where these isolated shots were coming from. Is that correct?

A That is right. Well, I could determine some were coming from in front of us and some from in back of us, but I couldn't be clear of anything else.

Q Could you determine whether or not they were coming from your column?

A No, I couldn't tell you that.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. [illegible]:

Q Do you know a man by the name of Gorgel in the SS, regardless of what his rank may be?

A A Gergel—a first sergeant in the SS, a sergeant in the SS, or a warrant officer in the SS. It could have been one of them. I don't know how you spell his name.

Q Did you see him on this march?

A No.

MR. HALL: No further questions.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q What did you mean when you said you could hear shots "behind us"?

A Well, when you are marching one and a half kilometers ahead of a column, you can determine whether they are shots ahead of me or behind me.

Q When you said "behind us", who did you mean by the word "us"?

A Well, I didn't mean to say us. I meant behind me. That is the way I would express it more accurately.

Q When you said "behind us", who did you mean by "us"?

A Well, I didn't mean to say "us". I used the wrong expression. I meant behind me.

Q Skiezka's column was behind you, is that correct?

A Yes.

Q What did you mean earlier in your examination when you said these people were all from other camps and you couldn't tell who was marching beside you?

A Well, you couldn't know very many people because the camp police were suddenly filled up with people from other camps and many of our old colleagues there had left, and the guards had come from other camps such as Buchenwald and Gross Rosen.

(Ruehlicke-Recross)

Q You mean to say you were marching beside guards from other camps and you didn't know who they were. Is that right?

A Well, I don't mean to say that. I wasn't always marching with the column, and where I spent the night on the right side of the road, the column had come up on the left, and I spent the night with some people I didn't even know.

Q You say you weren't always marching with the column. Were you marching with it part of the time.

A No, usually I was ahead of the column, and when I got the order to show the route to the column, I would necessarily wait for the column to catch up with me.

Q What did you mean when you said you didn't know who was marching beside you?

A It was like this: During this march there were a lot of strangers there, there were Ukranians who were black coats, we were wearing field gray, and there were US. They would come from the various villages and join us.

Q Will you tell me what you mean by the term "marching beside you."

A Well, I meant to say that some of these people who fell behind this column were walking along beside me.

Q Mr. Ruehlicke, is it not a fact that you were marching as guard along this column with the other troops.

A No, that is not right.

MR. BERKOWITZ: No further questions.

PRESIDENT: Mr. O'Connor.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Can you tell the court the nationalities of the various persons

who comprised the guard units?

A Some of them were Rumanians and Hungarians. I do not know whether there were any Slovenians among them. There were some Ukranians and there were some people from the Polish territory.

Q Is that all?

A That would be the principal people.

MR. O'CONNOR: No further questions.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further, sir.

PRESIDENT: Questions by members of the court? Apparently not. The court understands that the defense is finished with this witness.

DEFENSE COUNSEL: That is right, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom.)

PRESIDENT: The court will adjourn until 9:00 a.m. tomorrow morning.

(Whereupon the court adjourned at 1700 hours.)

who comprised the guard units?

A Some of them were Roumanians and Hungarians. I do not know whether there were any ~~Slovenians~~ Slovenians among them. There were some Ukranians and there were some people from the Polish territory.

Q Is that all?

A That would be the principal people.

MR. O'CONNOR: No further questions.

PRESIDENT: Recross?

MR. NEMOVITZ: Nothing further, sir.

PRESIDENT: Questions by members of the court? Apparently not. The court understands that the defense is finished with this witness.

DEFENSE COUNSEL: That is right, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom.)

PRESIDENT: The court will adjourn until 9:00 a.m. tomorrow morning.

(Whereupon the court adjourned at 1700 hours.)

[illegible] Court to be held [illegible]

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on ..... 194 .....
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

Copy of above served on accused ..... 194 .....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate

Pages 7845 - 7926 Inc.

Case No. FLOSSENBURG

*[redacted]
*[redacted] Military Court.
*General

Place Dachau, Germany

Date 10 December 1946

Prosecutor Copy

Defence Counsel

Interpreter

Reporter

[redacted]:
WITNESSES:

HAUBOLD, Gerhard
SCHIPPEL, Helmut
LIENERTH, Johann

Accused Friedrich Becker, et al.

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *furtner term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES VERSUS FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

10 DECEMBER 1946 0915 - 1700 hours Pages 7846 - 7926 Inc.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
HAUBOLD, Gerhard	7846	7860	7864-7875	7865-7876	7866
SCHIPPEL, Helmut	7879	7900	7913	7913-7915	7907 7913 7916
LIEWERTH, Johann	7917				

EXHIBITS

NONE

Camp Dachau, Germany

10 December 1946

MORNING SESSION

(Whereupon the court reconvened at 0915 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: Let the record show that all the person el of the court are present; Mr. Berkowitz of the Prosecution is present, Mr. Pinter and Mr. Denson absent on business of the prosecution; the personnel of the defense are present with the exception of Dr. Wacker, Dr. Sagelhorn, Mr. Hall and Mr. McKay, absent on business of the accused; all the accused are present with the exception of Losch, Oswalt, Eisbusch, Mussfeldt, Furst, Ginschel and Lipinski, who are ill and Dr. Schmitz and Brusch who are conferring with counsel. The interests of those named accused who are absent are being taken care of by counsel. If there are any spectators in t e courtroom who expect to be called as witnesses in this case, they will please leave the courtroom. The interpreter and reporter are also present.

MR. O'CONNOR: The defense calls Gerhard Haubold, testifying in his own behalf.

PRESIDENT: The court understands that you desire to take the stand in your own behalf.

ACCUSED HAUBOLD: Yes.

PRESIDENT: You may proceed.

GERHARD HAUBOLD, an accused, voluntarily took the stand in his own behalf and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q What is your full name?

A Gerhard Haubold.

Q How old are you.

A Thirty-nine years old.

Q Are you married?

A Yes.

Q Do you have any children?

A Yes.

Q How many?

A One.

Q Where is your home?

A In Chemnitz.

Q What is your nationality?

A German.

Q What is your occupation?

A Druggist.

Q Were you a member of the National Socialist Party?

A Yes.

Q When did you join it?

A 1931.

Q Were you a member of the Waffen SS?

A Yes.

Q When did you join that?

A 15 November 1939.

Q Were you drafted or a volunteer?

A I was drafted.

Q What was the highest rank you achieved in the Waffen SS?

A Technical Sergeant.

Q While in the Waffen SS were you ever assigned duties in the Camp Flossenburg?

A Yes.

Q When did you arrive there?

A 16 February 1945.

Q Upon your arrival, what duties were you assigned?

A Nothing.

Q When were you assigned duties there?

A March 5th, 1945.

Q And to what detail were you assigned?

A I received orders from the Adjutant Baumgartner to take charge of the prominent people in the arrest building.

Q. Describe to the court what your duties were.

A My duties were to take care of these people, concerning food, laundry, smoking, books.

Q Will you please give the court the names of some of the prominent prisoners under your supervision if you can remember.

A After I had been assigned to the arrest building, many other people arrived. They came from Sachsenhausen. There was Prince Philip of Hesse, the family Schuschnigg, the family Prince Albert of Bavaria, Colonel General Halder, General Thomas, Dr. Schacht. Then there were other prominent people, numerous British officers, two Russian generals, seven Greek generals, then SS. During my time there were thirty-five to forty SS there, four SS female supervisors.

Q Please explain whether these SS were prisoners, or residing there.

A No, these SS men were under arrest, forced arrest and under strict arrest.

Q. Beginning with the 5th of March when you were first assigned to duty, did you remain on continuous duty?

A Until the 1st of April.

Q What happened the 1st of April?

A I took a tour of duty to Chemnitz. I found out from the political department that a prisoner was supposed to be transferred. I took the prisoner to Chemnitz and April the 7th I returned.

Q And how long did you stay in Flensenburg after the 7

A April the 16th at 7:00 o'clock in the morning, all SS men

still in the bunker were released and that finished my duties.

Q Please give to the court the total amount of time you were in the arrest bunker.

A Five weeks.

Q Will you please explain to the court what took place in the arrest yard during the time you were in the arrest building, with respect to executions.

A The official executions in the arrest building which I saw numbered fourteen; three of the fourteen were members of the Wehrmacht which had been sentenced by a court-martial. The 20th of March, or middle of March, twenty Russians arrived who were brought by the Wehrmacht and sentenced by the Wehrmacht.

Q Sentenced to what?

A To death. These Russians were members of the Vlassow Army and were taken because of espionage.

Q Tell the court what happened.

A About the twenty Russians?

Q Yes.

A It was about noon when I was called by the block leader --

Q What was his name?

A I don't know that. I went there and a Vlassow man was standing there, a master sergeant of the Vlassow Army, a Russian who spoke German told me he wanted to see the Adjutant who was this First Lieutenant Baumgartner. I then called Adjutant Baumgartner and told him that a Vlassow master sergeant was here with twenty Russians. Baumgartner told me he would come down immediately. When he arrived he told the master sergeant to drive the car. In the meantime, I talked to the master sergeant. He told me these twenty Russians had been sentenced to death by a field court because of espionage. I went back to the arrest building with Baumgartner and the master sergeant, and

the master sergeant said he wanted to shoot these Russians himself, but Baumgartner said we will do it ourselves.

Q Then what happened?

A These Russians were then led into the courtyard one by one and there were approximately one hundred planes passing and Baumgartner himself put away those Russians. Baumgartner had a cigar in his mouth and since I was standing in the back yard he told me to load the rifle. I was nervous and did so. In the same time Wolf came out and the shot was fired, and wounded Wolf's hand.

Q What happened after that?

A Wolf went to the hospital and Baumgartner executed the Russians.

Q Can you tell the court what if anything happened in the arrest building when the Russians were taken to the arrest building to be shot?

A From what I heard, the sentence was read to them because the documents with the sentences on them were held by the master sergeant.

Q The Russian master sergeant?

A Yes.

PRESIDENT: The court will take a short recess in places.

(Thereupon the court recessed in places.)

Q Mr. Haubold, can you explain to the court what the Russian master sergeant was doing in the arrest building?

A He didn't do anything.

Q What I am referring to, was he in the Russian Army, or the German Army?

A He was a former Russian prisoner.

Q Can you tell the court what the Wlassow Army was?

PROSECUTION: Just a minute. I object to the question as immaterial.

MR. O'CONNOR: Sir, I think the question is material just what this fellow was doing.

LAW MEMBER: The objection is overruled. However, make it precise.

A The Wlassow Army was a branch of the Wehrmacht, consisting only of Russians. All of these men had Wehrmacht uniforms, but the Russian insignia on their sleeves.

Q Have you told this court everything you had to do with the executions of these twenty Russians?

A Yes.

Q I hand you a document admitted into evidence as Prosecution's Exhibit 53 for identification and ask you what that is.

A That is my declaration made under oath.

Q Is that your signature on the bottom?

A Yes.

Q And in this statement identified as Prosecution's Exhibit 53 for identification you stated you were present at the execution of fourteen men. Can you explain that to the court?

PROSECUTION: I want to call the court's attention to an error. It is not Prosecution's Exhibit 53 for identification, but Prosecution's Exhibit 53 in evidence.

MR. O'CONNOR: That is correct, sir.

PRESIDENT: The record will be corrected.

Q Will you please explain to the court what part you took in the executions of these fourteen men, as set forth in Prosecution's Exhibit 53?

A I only acted as a witness during these fourteen executions.

Q Tell the court what happened.

A I was standing there, just like the doctor or the Adjutant or the men and to me it was the first time I saw such a thing.

Q What time was it?

A 7:00 or 7:15.

Q How did you happen to be there?

A I was going on duty and the Adjutant was standing by the block leader's house just like every morning back there at the arrest. In the meantime, the doctor had arrived. The prisoners were then led back to the yard of the arrest building, but not all fourteen were led down there at the same time. There were three segregated, then there were one, then two; however that was not in the arrest building, they were taken from the camp to the arrest.

Q Outside of the three soldiers taken to the arrest, explain to the court what you did.

A I didn't do anything.

Q Where were you standing?

A I was standing at the back end of the yard near the wooden shack with the doctor and the Adjutant and the commandant and roll call leader.

Q Will you step over here and explain to the court exactly where you stood.

A In this left hand corner.

MR. O'CONNOR: Let the record show the witness pointed to a spot on the left hand corner of Prosecution's Exhibit 5.

Q Where did the executions take place?

A Right here.

LT. COLONEL WILSON: Let the record show the accused Number 6 has returned to the dock.

(Hambold - Direct)

Q Will you again point to the spot on Prosecution's Exhibit 5 where the actual shootings took place.

A Here.

Q Take a good look at Prosecution's Exhibit 5. Is that where the shootings were?

A Yes.

MR. O'CONNOR: Let the record show that the witness has indicated a block directly above the point to the left side of a block identified by a "3" in a circle.

Q Mr. Haubold, will you please explain to the court whether or not there were any other executions during the time you were in the arrest bunker?

A I don't know what took place from the 1st to the 7th of April when I was not present.

Q I am just referring to the time you were there.

A No.

Q I call your attention to the testimony of Prosecution's witness Mathoi. Do you recall that?

A Yes.

Q Do you recall that he charged you went around insulting prisoners and carrying a whip?

A Yes.

Q What do you have to tell the court about that?

A That I never owned a whip, that there was not a whip in the buildings; that I did not insult prisoners. I wanted Schuschnigg as a witness here. Schuschnigg's child was running around the arrest building, was almost all day long in the office. The child would have seen a whip if there was one in the office, as well as Mrs. Schuschnigg and they would have seen that a whip was there and that I would have beaten people with a whip.

PRESIDENT: Court will take a thirty minute recess.

(Thereupon at 1000 hours the court recessed until 1030 hours)

[illegible]

[illegible]

[illegible]

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all members of the court are present; all members of the prosecution, with the exception of Mr. Denson and Mr. Pinter, who are absent on business of the prosecution; all the defense, with the exception of Mr. Hall and Dr. Wacker, who are absent on business of the accused; all of the accused are present, with the exception of Lipinski, Losch, Oswalt, Eisbusch, Hussfeldt, Wurst and Ginschel, who are ill, and Dr. Schmitz, who is conferring with counsel, the interests of all accused being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Continuation of direct-examination, Mr. O'Connor.

GERHARD HAUBOLD, an accused, resumed the stand in his own behalf and continued to make the following unsworn statement through an interpreter:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Haubold, you have mentioned a youngster that the Schuschniggs had in the arrest yard in Flossenburg. How old was that child?

A Four years.

Q You have also referred to the fact that you never owned a whip. Did you ever have a whip of anyone else's while you were in charge of the arrest in Flossenburg?

A No, no whip existed at all.

Q Mr. Haubold, the witness Wottet further testified that he saw you on one occasion walk to the end of the yard with some rope and a ladder. Do you recall that?

A Yes.

Q Will you make any explanation that you can of that statement to the court.

A The ladder had always been in the back in the shack. I never

carried a rope. I never carried a ladder.

Q Now, this same witness Mottet testified that in cell No. 26 there was an American confined. Do you recall that?

A Yes.

Q Will you step over to the chart on the wall (the witness did as requested) and point out to the court where cell 26 was in the arrest building.

A 26 is here (indicating).

MR. O'CONNOR: Let the record show that the witness has pointed to the block which is identified as No. 3 in a black circle, immediately to the left of the center of the block on Prosecution Exhibit No. 5.

(At this point Dr. Wacker joined the staff of the defense counsel.)

A Colonel General Halder was in cell No. 26. I also requested him as a witness. Mottet was not on this side, but on this side here (indicating.)

MR. O'CONNOR: Let the record show that the witness is now pointing to the point on the block which is identified with a 3 in a circle, to the right of the center of said block, on Prosecution Exhibit No. 5.

A The Englishmen were from cell 40 on down to 30; then the prominent people; then SS; again prominent people, again SS; then prominent people were here on this side (indicating).

MR. O'CONNOR: Let the record show that the witness has pointed to blocks appearing on the left hand side of the block marked with a 3 in a circle on Prosecution Exhibit No. 5.

Q Now, where was Mottet billeted?

A He was on the left hand side, respectively, on the right hand side, here (indicating).

Q What do you mean by the left hand side and the right hand side here?

A As you entered the arrest building it was the left side, and this side was the right side.

Q That is from the entrance into the arrest building?

A Yes.

Q Now, state to the court whether or not a person could see into the arrest yard where the executions took place from the cell which was occupied by Mottet.

A No, not at all.

Q Well, was Mottet's cell during the time you were in charge of the arrest bunker on the arrest yard side of the block or on the other side?

MR. BERKOWITZ: That is objected to as being vague and misleading.

MR. O'CONNOR: All right, I will withdraw the question.

Q Please point out on Prosecution Exhibit No. 5 on which side of the arrest yard Mottet's cell was located.

MR. BERKOWITZ: Objected to as repetitious.

MR. O'CONNOR: Well, sir, I am not speaking as to which side, the right or the left, I am speaking of which side of the building--the block itself.

MR. BERKOWITZ: The witness has already pointed it out.

MR. O'CONNOR: Sir, he has pointed out whether to the right or left of the center on this exhibit, but he hasn't pointed whether on the upper side or the lower side.

PRESIDENT: Objection overruled.

A The windows were to the rear.

Q In otherwords, if Mottet looked out of the window of his cell, would he be looking at the arrest cell or at the brothel?

A Yes.

Q Well, which one would he be looking into, the arrest yard or at the brothel?

A He would look at the brothel or else at the hill which was behind here (indicating).

(At this point the witness resumed his place in the witness chair.)

Q Mr. Haubold, referring again to the American Lieutenant that Mottet testified was in cell No. 26, can you make any explanation of that to the cour

A Yes.

Q Go ahead.

A There was no American Lieutenant in the arrest because Colonel General Halder was in cell 26. I also named him as a defense witness but he has not appeared until today, because Colonel General Halder was in cell 26.

Q The witness Mottet has further testified that Mr. and Mrs. Schuschnigg and their daughter arrived sometime in January of 1945. Will you tell the court if that is correct.

A No, that is not correct either. I also requested Mr. and Mrs. Schuschnigg as witnesses, who can themselves verify that they did not arrive in January.

Q When did they arrive?

A They also came the beginning of March.

Q Now, on what day of March was that with respect to the day you reported for duty in the arrest building?

A When I came to the arrest the family Schuschnigg arrived just then.

Q Well, was that on the same day?

A Yes, I believe so.

Q Mottet has testified that the Schuschnigg family left Flossenburg in the beginning of March. Is that correct?

A No, that is not correct either.

Q When did they leave?

A The family Schuschnigg, together with the family of the Prince of Bavaria, left the 12th or 13th of April 1945.

Q In connection with the execution of twenty Russians that you have already testified about, you have mentioned the name of the adjutant Baumgartner. What were his duties in Flossenburg at that time?

A He was the camp adjutant. He also functioned as protective custody camp leader, and he also was the superior officer of the arrest building.

Q Was he your immediate superior or was there someone in between?

A He was my superior.

Q Mr. Haubold, did you take part in the evacuation of Camp Flossenburg?

A No.

Q Is there anything else you wish to tell the court about which I have not asked you?

A Mottet also testified that if a man was smart he would pick up a razor blade or a wire in the courtyard and open the arrest trap. All of the arrestees were shaved almost every day by the barber with a straight razor. There were no razor blades in the arrest building; also no wire. Even SS men have tried in the back there—SS men who have been arrested—to open the little trap with their pocket knives, pocket knives they had on their persons; they did not succeed. Mottet also testified that I gave the orders pertaining to the American Lieutenant. I did not have any power to give any orders concerning executions. All of the time during the time that I was a soldier I was with the troops and I never had the authority to give any orders concerning executions.

MR. O'CONNOR: Si , I would like to call the attention of the court to a mistake in the record, as testified by this witness.

PRESIDENT: Which witness are you referring to?

MR. O'CONNOR: This present witness on the stand. He said Mottet had testified he gave the order for the execution of the American. I refer the court to page 1663. He did not charge him with that.

MR. BURKOWITZ: If it please the court, the record speaks for itself.

MR. O'CONNOR: Yes, sir, that is what I am maintaining. The record states only that Haubold was the chief of the jail at that time, not that he gave any order. I just bring that to the court's attention.

MR. O'CONNOR: (to witness) Is there anything else you wish to tell the court at this time?

PRESIDENT: The court will give the witness an opportunity later on to make either an explanation or statement.

MR. O'CONNOR: Yes, sir, that is all I have at this time.

PRESIDENT: I don't believe there was any answer to your question, however, as far as the witness was concerned.

THE WITNESS: Yes.

PRESIDENT: The court would like to see the record that you refer to. The court will take a short recess in place.

(Whereupon the court recessed in place at 1100 hours and reconvened at 1115 hours.)

PRESIDENT: Court will come to order. Cross-examination?

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Do you speak English?

A No.

Q Do you understand it?

A No.

Q You were chief of the jail while you were there, weren't you?

A During the time I was there I was the highest ranking man.

Q During the time you were there executions took place, didn't they?

A The ones I stated.

Q Do you remember the executions that took place on the Thursday before Easter 1945?

MR. O'CONNOR: If the court please, I object to the question unless he names the date. I don't know what date Easter was that year.

MR. BERKOWITZ: I will withdraw the question.

Q Do you remember what date Easter was in 1945?

A That I can't remember any more today.

Q What day of the week did you leave the camp on your alleged duty trip?

A That was Sunday.

Q What Sunday was that?

A Sunday, the 1st of April.

Q Well, do you remember whether or not that was Easter Day?

A I don't know that.

Q Now, the Thursday before that was the 29th of March. Do you remember the executions that took place in that arrest yard on the 29th of March?

A No.

Q Do you know Lieutenant Sullivan?

A No.

Q Do you know the American Lieutenant who was in the arrest building?

MR. O'CONNOR: May it please the court, I object to that question unless the dates put on it.

MR. MERKOWITZ: If it please the court, I am asking if he knew any Americans in the arrest building, and the witness is competent to answer.

PRESIDENT: Objection overruled.

A I have already said that there was no American Lieutenant in the arrest.

Q Now, these prisoners who were in the arrest building were moved occasionally from cell to cell, weren't they?

A No.

Q They always remained in the same cell, did they?

A During my time, yes.

Q Now, if they looked out through the window they saw in the direction of the brothel, but as they looked out through the door they looked towards

the direction of the courtyard, didn't they?

MR. O'CONNOR: Object to the question, sir, on the ground that it is equivocal and ambiguous and the word "they" could mean a ybody.

MR. BERKOWITZ: I will withdraw it and clarify it.

Q Now, the prisoners' cells were on the side of the arrest building w ich was toward the wire which surrounded the protective custody camp, weren't they?

A The back wire?

Q Yes.

A Down, yes.

Q And their windows faced in the direction of that wire, is that correct?

A Yes.

Q And the doors faced in the direction of the courtyard?

A Yes.

Q And if any man was able to open the door, or when his door was opened or if there was a slot in his door he was able to look out in the direction of the courtyard, is that correct?

A When the door was opened he could look to the courtyard, but there was no opening through which he could look to the outside.

Q If a prisoner was able to make a slot in his door, that slot would face in the direction of the courtyard, is that correct?

A If he made a slot, yes, but he couldn't do that.

Q Now, this prisoner Mottet, he had certain duties in the arrest building; he was frequently outside of his cell, wasn't he?

A Not during my time. Paul Vogel did that during my time.

Q Didn't Mottet also have duties there?

A No, not during my time. The adjutant rejected that immediately.

Q What were ropes and ladders used for in that courtyard?

A For those who were to be executed.

Q Executed how?

A By the rope.

Q Who was the roll call leader at that time who was present at these executions?

A During my time Geisberger.

Q Geisberger, one of the accused?

A Yes.

DEFENSE COUNSEL: If it please the court, let the record show that Hussfeldt, Bisbusch, Ginschel and Wurst have returned to the dock.

Q On what date did these fourteen executions take place?

A Several days.

Q What were the nationalities of the victims?

A Three German soldiers; and the others, so far as I know—but I don't know exactly, and I didn't see it on the execution slip—Poles and Russians.

Q When were the Englishmen executed?

A I don't know anything about that.

Q Now, can you tell us, Haubold, whether these prisoners who were in the bunker were entered on the camp rolls?

A They were not entered at all; only the SS men were on the rolls.

Q Did any of the prisoners who were in the arrest building wear camp numbers?

A Yes, during the beginning of my time there were some in back there who had numbers.

Q Now, isn't it a matter of fact that if a prisoner in the camp was charged with some offence and then brought into the arrest building he would wear his prison number?

A He was delivered just as he had left the camp. But during my time no one was brought in there because the arrest was overcrowded by prominent people. Four capos were delivered one morning; something was supposed to

have gone wrong with the food; and they were released the next morning. Other than that, no prisoners entered during my time because everything was overcrowded by prominent people and SS.

Q So that some of the prisoners had the camp number and some of them did not, is that correct?

A The prominent people didn't have any numbers.

Q Now, you stated you didn't have any whip. What was that thing you carried around in your hand?

A I did not carry anything.

Q Wasn't it a club or a rubber hose?

A I never had a rubber hose or a rubber club.

Q Well, what did you use to beat the prisoners with?

A I did not beat any prisoners at all.

Q At no time?

A No; that is a complete lie on the part of Mottet.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Haubold, you stated in response to a question from Mr. Berkowitz that you were the highest ranking officer of the jail. Do you mean commissioned officer or non-com?

MR. BERKOWITZ: Objected to as repetition. He has already testified to his rank.

PRESIDENT: Objection overruled.

A Non-commissioned officer.

Q Will you please explain to the court the character or nature of your association with Mr. and Mrs. Schuschnigg and their daughter Sissy during the time that they were prisoners in Flossenburg.

MR. BERKOWITZ: Objected to as immaterial.

PRESIDENT: Objection overruled. Make it concise.

A Mrs. Schuschnigg, as well as the small child, were not under arrest. Mrs. Schuschnigg and the child were allowed to take walks into the village and they were allowed to travel any place they wanted to at any time during the day. Mrs. Schuschnigg also had permission to move around freely in the arrest. Whenever Mrs. Schuschnigg wanted to take a walk, she would tell me so. She was then led through the camp to the outside and was then sent away all by herself to the village or whatever place she wanted to visit. Whenever she returned she reported to the guard; she was picked up then by us, led through the camp again, back to the arrest building. Mrs. Schuschnigg had also permission to bake cakes, which I had done for her in the SS kitchen. Because of the liberty of Mrs. Schuschnigg and the child, they can testify that there was never a whip, rubber hose, or rubber club in the arrest building; that I never had one; beat anyone with it, or insulted prisoners. For that reason I beg the court to assist me to get hold of these witnesses, as well as Colonel General Falder, who was in 20, the cell to which Mottet testified that the American Lieutenant was in. The room of the family Schuschnigg was right next to the right of the orderly room, where every word could be heard.

Q Is that all?

A Yes.

MR. O'CONNOR: That is all.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Was Mrs. Schuschnigg allowed to wander around the courtyard when executions were taking place?

A They were at 7 o'clock or 7:15 in the morning.

Q Will you answer my question, please.

A No; they slept.

MR. BERKOWITZ: No further questions.

PRESIDENT: Questions by the court.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q As a matter of information, did you notice anything unusual about Von Schuschnigg?

A No; he was completely healthy.

Q You think he was in the full possession of his mental faculties?

A Yes; he even read English books; he read very good books; and I talked with him; I conversed with him; and he was in full possession of his mental capacity. The court could also question the witness whenever she arrives here that his mentality never suffered.

Q Now, further as a matter of information, do you know what charges were pending against Colonel General Halder, that is, at the time he was in Flossenburg?

A Yes, he told me that himself; because of the 20th of July 1944.

Q You are referring to the 20th of July 1944?

A Yes, to the plot against Hitler.

Q Did he tell you anything further about that particular incident?

A Yes, he told me that he was involved in the thing; he told me he was being accused of being involved in this thing; but Colonel General Halder had already been relieved of his duties and was living with his family on his estate in Bavaria. Dr. Schacht also told me that.

Q What part of Bavaria?

A I don't know that.

QUESTIONS BY COLONEL BURCHAM:

Q Where were you a soldier?

A With the 11th Regiment, Das Reich. I also took part in the western campaign; I was wounded.

Q When?

(Haubold-Court)

A In May 1940.

Q Where did you go after that?

A I was then in Holland, then in Belgium, and back to Holland again, and was then released from duty by order of Himmler on the 5th of September 1940 because this order read that everybody who had been born prior to 1910 could be released. I was then again drafted the 15th of November to the 5th Regiment in Stralsund. Because my firm, my employer, had made application for me to remain at home, and because I was not quite healthy any more, I was released the 25th of November. Again I was called to duty the 25th of March 1941 to Auschwitz. There I was put on the rosters as being capable of doing garrison duty and I only did troop service. 1941 I was non-commissioned officer; 1942 I was platoon leader; from 1943 until 1945, February 1945, I was master sergeant. Volk Germans were trained there; they received their basic training and were sent to the front there.

QUESTIONS BY COLONEL LANDAU:

Q Referring back to the arrest building again. Will you state whether or not the cell doors that faced on the hall had a slot in the doors.

A No.

Q Now, could you see through the cell door into the hall?

A They could not look to the hall at all.

Q Wasn't there a small opening about three centimeters in the form of a slot that you could see through the cell door into the hall?

A No, there was a small window with a black cover. The black cover was always closed so that no one could look to the corridor—just like in bunker 1.

Q How big was the window?

A Perhaps five centimeters in diameter.

Q And that little door which you speak of of about five centimeters

in diameter would open and shut, is that correct?

A Only from the outside, from the corridor. There was a piece of glass in it and outside on the floor in front of this glass was this black lid.

Q That would slide up and down over the glass, is that correct?

A From the outside; from the corridor, yes.

QUESTIONS BY COLONEL BAYLY:

Q How many executions did you take part in during the time you were in Flossenburg?

A I did not take part in any; I was merely standing there as a non-participating witness.

Q Why were you standing there?

A Partly out of curiosity because I had never seen it before.

Q Well, how many times did you stand there out of curiosity?

A During the fourteen of which I spoke, perhaps five times.

Q Well, I want to know how many you saw executed at Flossenburg; how many people did you see executed at Flossenburg?

A Fourteen, and the twenty Russians.

Q It took that many to satisfy your curiosity?

A No.

Q Why were you there, then, the rest of the time after your curiosity was satisfied?

A I also received orders from First Lieutenant Baumgartner to go back there.

Q Well, what did he order you to do when you got there?

A That I was to go along.

Q For what?

A I don't know.

Q Just what were the orders he gave you?

A "Come along".

Q That was the only order you got the whole time?

A Not once; perhaps two or three times.

Q How did you happen to have the rifle in your hand the time Wolf was shot?

A The adjutant Baumgartner had a cigar in his mouth which was out and he wanted to light it again and he gave the rifle to me.

Q How did you happen to shoot Wolf's hand with the rifle?

A Wolf came out with a Russian and while he was going past this shot went into his hand.

Q How many times did you go out of curiosity and how many times were you ordered to go to these executions?

A I might have gone along twice out of curiosity.

Q And how many times were you ordered to go?

A Three or four times it might have been.

QUESTIONS BY PRESIDENT:

Q Well, Haubold, just what were you doing during those executions?

A Nothing; I was just standing there.

Q You just stood around and watched.

A Yes.

Q You never gave any assistance whatsoever?

A No.

Q Was that generally the policy followed by Baumgartner to let somebody stand around and do nothing?

A I don't know that.

Q Is that the only time you had a rifle in your hand--the time that you shot Wolf?

A Yes.

Q Did you ever assist in any way whatsoever adjusting the noose or

anything of that nature?

A No.

Q Were all of these executions by rifle fire or were some of them by hanging?

A The fourteen of which I spoke were executed by hanging.

Q What about the others?

A They were shot to death.

Q And you just stood around and watched all during those executions, is that right?

A Yes.

Q And you saw the fourteen executed and the twenty Russians, is that right?

A Yes.

Q How many others did you see executed besides those?

A None.

Q Well, just where did you stand during those executions?

A On the yard.

Q Well, how far from the actual execution place?

A Two meters outside of the shack which was there.

Q Well, how close was that to the actual execution place?

A It could have been four meters.

Q And you had no particular duties to perform during any of those executions, is that the ide ?

A No, none.

Q And you weren't actually required to be present at those executions on certain occasions, is that right?

A Yes.

Q Did you get an order to attend each one of them?

A Not for each one.

Q Well, about how many times did you actually get orders to attend?

A As I stated, three to four times; because so far as Mottet's testimony is concerned that executions took place every day and even on Sundays, that is a lie.

Q Then the court understands you were only ordered to attend executions about three or four times, is that right?

A Yes.

Q But you actually attended some thirty-four executions all told?

A Yes, thirty-four executions.

QUESTIONS BY COLONEL SKIMLVIG:

Q Haubold, with respect to these fourteen executions which you saw take place, were these prisoners prepared in the normal fashion prior to the execution? I mean by that were they stripped of their clothing; were their hands tied?

A Yes.

Q Who did that?

A The people who were on duty in the arrest building and who were on night shift.

Q Who were those people?

A That varied, Stavitski, Weihe or Dohlen.

Q With respect to the twenty Russians, were they prepared in the same fashion?

A Yes, because the Wehrmacht sergeant said that he had to take their clothing along again, but they were not tied.

Q Their hands were not bound?

A No.

Q What did they do? Simply stand them up in the yard and then shoot them at that time?

A Yes, they were taken there one by one.

Q Who was responsible for the preparing of these men for the execution?

A Those people who had night shift or else those who were in the arrest building.

Q Now, this Russian master sergeant about whom you have spoken and referred to as having wanted to shoot the Russians. Did he come with the trucks that brought these Russians?

A Yes.

Q He was simply a guard then, is that correct?

A No, he was the leader.

Q Was he finally executed or what?

A No.

Q Well, do you mean by that he was the leader of the guard?

A He was in charge of the truck in which the Russians were, including four escort guards. They drove off with the car again.

QUESTIONS BY COLONEL BURCHAM:

Q You said that Mrs. Schuschnigg and the little Schuschnigg girl had freedom to come and go in the arrest building. Just where did they go? Where could they go?

A The yard and also the corridors; they were open too.

Q Any part of the corridors?

A Yes.

Q Were they allowed to talk to the inmates?

A Yes, she talked to them, because the cells of the British and Greek officers were open, they were not locked; they walked up and down the corridor all the time, or else they were in the yard; they even played soccer.

Q Now, this shack where the executions took place. Did all of the executions take place in that shack?

A Yes.

Q And in which direction was the opening to that shack?

A In the center.

Q Which way did it face?

A The shack was as wide as the whole courtyard.

Q And the opening was towards the long way in the courtyard, is that the idea?

A Yes.

Q In other words, it was simply a roof over part of the courtyard.

A The shack was covered completely; there was a roof on top and walls all around.

Q It had a doorway, a swinging door or sliding door, or what?

A A regular door.

Q You stood outside when you watched these executions in your curiosity?

A Yes.

Q Did they leave the door open for you?

A The door was open anyhow.

Q Were there any windows facing the courtyard of the arrest building?

A There were windows in the arrest building facing the courtyard.

QUESTIONS BY PRESIDENT:

Q Now, these Russians that you mentioned as having been executed. Were they Russian nationals or were they Germans living in Russia or who had lived in Russia?

A No, those were Russians, but in the Wehrmacht uniform, members of the Wlassow army.

Q Did you receive any favors for attending these executions?

A No, not at all.

Q Didn't receive any schnapps or anything like that for being a

witness?

A No.

Q Not on a single occasion?

A No.

Q And you simply attended these executions part of the time on orders from Baumgartner and part of the time out of curiosity, is that right?

A Yes.

Q You say you have never participated in a single execution?

A No.

QUESTIONS BY COLONEL LAWSON:

Q These Russians, as I understand from you, were in the German army?

A They had been prisoners of war and they were then picked out according to those who wanted to join the Vlassow army. I heard that quite often and I heard that from many officers here in the bunker also who had Wehrmacht uniforms and who were Russians that men were allowed to volunteer for the Vlassow army.

Q Well, do I understand that they had sworn allegiance to Hitler?

A I don't know that.

Q Did they have to swear allegiance to Hitler in order to join this Vlassow army?

A I don't know that either.

Q But they were a part of the German army so far as auxiliaries were concerned, is that correct?

A Yes.

Q Now, with reference to the arrest building again, I note that Ottet has testified that these little openings in the cell doors were about thirty centimeters square. You state they were five centimeters square. Now, can you tell the court definitely which is nearer correct.

A There were little flaps that were opened, just like in the bunker here, through which they would get their food.

Q Would you say that thirty centimeters square was too large or is five centimeters too small?

A No, the court must understand me wrongly. There was the flap down below which was thirty centimeters square, and at the height of a man there was another opening, a so-called peeping hole, and that was covered with glass and a black cloth.

Q How big was this peeping hole?

A Five centimeters.

Q Now, was that the only thing that was open other than that door which you say was normally kept shut?

A Only the flap.

Q How large was the glass in that peep hole?

A Approximately five centimeters it must have been. It is exactly the same as in bunker 1.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect?

MR. O'CONNOR: Yes, sir.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Hauhold, on the occasion that you had received orders from Baumgartner to attend the executions, can you tell the court approximately how many of these Russians were executed on each occasion?

A Twenty.

Q Well, you said you received orders three or four different times. Now, on each one of those three or four different occasions that you were ordered by Baumgartner to attend an execution, how many would be executed on each occasion?

A That varied. Sometimes three, sometimes four.

PRESIDENT: Court will adjourn until one-thirty this afternoon.

(Whereupon the court recessed at 1200 hours.)

AFTERNOON SESSION

(whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court, may the record show that all the members of the court are present, all the personnel of the prosecution are present with the exception of Mr. Denson and Mr. Pinter who are absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Lipinski, Losch, Oswalt, and Neye who are sick, and whose interests are being taken care of by their counsel. If there are any spectators in this courtroom who expect to be called as witnesses, they will please leave.

PRESIDENT: Mr. O'Connor, continuation of redirect examination.

MR. O'CONNOR: If it please the court, I have nothing further.

PRESIDENT: Recross examination.

GERHARD HAUBOLD, an accused, voluntarily took the stand in his own behalf and continued to make the following unsworn statement through an interpreter as follows:

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q On your various assignments as a soldier, did you ever have occasion to handle weapons?

A Yes.

Q You were familiar with the use and handling of weapons were you?

A Yes.

Q Now you referred to the openings and doors of the cells. There were two openings, were there not? --A little peephole and an opening where the food was handed through, is that correct?

A Yes.

Q You stated you were chief of the prison and as such were you in charge of the people who prepared the prisoner for execution?

A The people who worked for me were under me.

Q Will you answer my question please?

MR. O'CONNOR: If it please the court, I object to the question as being argumentative. I think he did answer it.

PRESIDENT: Will you read the last question and answer prior to this, reporter?

(Whereupon the reporter repeated the last question and answer.)

PRESIDENT: Objection overruled.

ACCUSED HAUBOLD: As I said, all the prisoners who were back there were under me.

MR. BERKOWITZ: No further questions.

PRESIDENT: Further questions by members of the court? Apparently not. Further redirect examination?

MR. O'CONNOR: No, sir.

MR. BERKOWITZ: No further questions.

PRESIDENT: The court understands that the defense is finished with this witness.

MR. O'CONNOR: Yes, with the exception that I request he be given a chance to make a statement.

PRESIDENT: The court will give you an opportunity to make any explanation or explanations or any statement that you

see fit or desire to make to the court.

MR. MERKOWITZ: Before he begins, may I see Mr. O'Connor?

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place at 1310 hours.)

(Whereupon the court reconvened in place at 1350 hours.)

PRESIDENT: Court will come to order. Any further questions by members of the court? Apparently not. Now the court will give you an opportunity to proceed, Haubold.

ACCUSED HAUBOLD: I have explained everything I did in those five weeks that I worked in the arrest. And I never acted contrary to any order but I only carried out those orders which I had been given. That is all I have to say.

PRESIDENT: Does the defense have anything further?

MR. O'CONNOR: No, sir.

PRESIDENT: The court understands that the defense is finished with this particular witness for the time being. The witness is excused and will resume his position in the dock.

(Whereupon the witness was excused and resumed his seat in the prisoners' dock.)

DEFENSE COUNSEL: At this time the defense would like to have permission to withdraw the accused Nathoi.

PRESIDENT: Permission is granted.

MR. O'CONNOR: I would like to change the order of calling witnesses and not call Beyer at this time, but Dr. Wacker will call a witness in his place.

DR. WACKER: The witness Schippel is going to be called on behalf of the accused Brusch.

MR. MERKOWITZ: Since this comes out of order, I wish to have just a moment, sir.

PRESIDENT: The court will take a short recess in place at the request of the assistant prosecutor.

(Whereupon the court recessed in place at 1355 hours.)

(Whereupon the court reconvened in place at 1405 hours.)

PRESIDENT: The court will come to order. Direct examination by Dr. Wacker.

HELMUT SCHIPPEL, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Helmut Schippel.

Q Please spell your last name.

A S-c-h-i-p-p-e-l.

Q How old are you?

A 33 years old.

Q Are you married?

A Yes.

Q Do you have children?

A Yes.

Q How many?

A One.

Q What is your civilian occupation?

A I am a technician and was in active service since 1935.

Q Where have you served on active duty?

A Waffen SS.

Q Where do you reside?

A Eibenstock, Erz Mountains.

Q Where are you at the present time?

A Special camp, Dachau.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: You are advised by the court that if you should be asked any questions that tend to incriminate you, that you have a right to request the court to refrain from answering that particular question. Do you fully understand?

WITNESS SCHIPPEL: Yes, sir.

QUESTIONS BY DR. WACKER:

Q What rank did you hold towards the end in the Waffen SS?

A SS First Lieutenant and administrative officer.

Q Do you know a technical sergeant Brusch?

A Yes.

Q Would you recognize him if you would see him today?

A Yes.

Q Please point him out if you can see him here.

A No. 6.

DR. WACKER: The witness has identified the accused Brusch as being No. 6.

Q When did you get acquainted with Brusch?

A When we travelled to Berlin September 17th; in the station in Weiden.

Q Did I understand you right--September?

A 17th of April, 1945.

Q Where did you meet Brusch?

A In the station in Weiden.

Q Where is Weiden?

A Near Flossenburg.

Q Under what circumstances did you get acquainted with Brusch?

A When I arrived in the station in Weiden, the station master called my attention to the fact that a prisoner transport had gone through there, that it had been dispersing and that the mail office had been looted.

Q What did you see in the station in Weiden?

A I saw female prisoners recognizable by their clothing running around dispersed in the station territory.

Q What did the station master tell you?

A He requested me as an officer to restore normal conditions and to collect the transport again.

Q What did you do?

A I asked for the man in charge of the transport.

Q Did you see SS men in the station at Weiden at that time?

A Up to then, I didn't see any.

Q Did you see Brusch at that time?

A After I had talked to the station master, Brusch came along.

Q What happened then?

A I told Brusch to have the prisoners collected immediately and have them taken back to the cars.

Q Did a conversation take place at that time between Brusch and you?

A I exchanged a few words with Brusch at that time. I asked him where the transport came from and why the prisoners were dispersed all over the station.

Q What did Brusch tell you at that time?

A He told me that the transport had departed a few days previously from Wolkenburg in Saxony. Furthermore, he said that the transport had been dispersed in the morning because of an airraid. Then I was under the impression that Brusch did not know what to do.

Q Is Wolkenburg an outcamp of Flossenburg?

A That was not known to me, but Brusch verified that.

Q You talked about 369 prisoners and shortly before that you talked about female prisoners. Please explain that.

A Of course I am referring to 369 female prisoners.

Q What did you do when Brusch told you that?

A After Brusch had told me that, I gave the orders as were mentioned before to collect the prisoners immediately and take them back to the cars and post the guards again.

Q Did that happen?

A That was carried out immediately.

Q Were you authorized to give orders?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q Did you have anything to do with Flossenburg or the outcamp of Wolkenburg at that time?

A No.

Q What was the reason for your orders?

A It was my task as an officer to see to it that order would be restored in the station in Zeiden.

Q Can any officer give orders under such circumstances?

MR. MERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q What power of command did you have to give such orders?

A At that time I did not have any power of command over the transport, but Sergeant Brusch being a member of the Waffen SS was my subordinate.

Q What do you mean by "at that time"?

A I was not responsible yet for the transport.

Q Why do you say "not yet"?

A Sergeant Brusch later on informed me that Major Berger was in Schwarzenfeld with a transport of male prisoners. I called Major Berger by telephone from the station and described to him conditions in the station there.

Q Did you get a hold of Berger over the phone?

A Yes.

Q Please describe the telephone conversation.

A I told him that upon my arrival in the station there I had found a transport of female prisoners which had been dispersed all over the station, that prisoners were running around every place there, that the mail room had been looted and that Sergeant Brusch up to that time had not done anything to change these conditions. I furthermore asked Major Berger whether he knew where my superior authorities in Berlin were at that time. He told me that they had probably gone south, Munich or Dachau.

Q What did he say in reference to this transport of female prisoners?

A Since the transport and I had the same designation of march, Major Berger asked me to take care of the transport of prisoners to Dachau.

MR. BERKOWITZ: I believe something has been omitted from the translation which designated the authority--being the assistant camp commander.

INTERPRETER: Yes, that is right.

QUESTIONS BY DR. WACKER:

Q Did you do that?

A Yes, I then took over this transport and had the responsibility for this transport as of Weiden to Dachau.

Q You just mentioned that Berger had given you this order as being the assistant camp commander. Did he mention that?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q Was assistant camp commander mentioned during the conversation?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q From whom did you hear that Berger was assistant camp commander?

A Sergeant Brusch told me that at that time.

Q What did you do when you received this order from Major Berger?

A It was my first job to see to it that this transport got food.

Q Did you take charge of the transport?

A I took charge.

Q Did you make that known?

A I informed Sergeant Brusch about this and asked him to inform the guards that that had come about and that happened as far as I know, yes.

Q Did that happen?

A As far as I know, yes.

Q Did you look upon yourself as being the leader of the transport at that moment?

MR. MARKOWITZ: If it please the court, I must object to his line of questioning. He is continually leading the witness and that is not proper examination. I object to the last question on the ground that it is a leading question.

DR. MACKER: I withdraw my question.

PRESIDENT: The court does not feel that this line of questioning is necessary. Employ a different method of questioning, Doctor.

QUESTIONS BY DR. MACKER:

Q What did you do at that time?

A You mean the day in Weiden?

Q I mean the time after you had had the telephone conversation with Berger.

A After I had had this telephone conversation and by virtue of this conversation had taken charge of this transport, it was my first job to see to it that the transport got food and that security measures would be taken. At that time, I tried

to get food from the police authorities, the prison administrative authorities, the Wehrmacht and the Red Cross. That was impossible. The Wehrmacht authorities were on their way already. The prison authorities and prison administrative authorities said that they did not have any water and no food because jails were overcrowded.

Q What happened to the prisoners?

A The prisoners were taken to the cars.

Q How many were taken to the cars?

A When I took charge of the transport there were 209 female prisoners.

Q You stated that Brusch named the number 369 by the time you left Wolkenburg. What happened to the other prisoners?

A The remaining prisoners must have definitely escaped because in the evening when the train left, there were 209.

Q Where did the train travel to?

A The train took off in the evening and drove to Irrenlohe.

Q Again I have to refer to the station in Weiden. Is there any forest near the station?

A I myself stayed in the inner city and in the station. Personally, I didn't see any woods.

Q Is there any forest near the station in Irrenlohe?

A Yes.

Q How far is the forest from the station?

A The forest commences in the distance of about 60 to 70 meters.

DEFENSE COUNSEL: I request permission to withdraw the accused 46, Skierka, for consultation.

PRESIDENT: Request granted.

QUESTIONS BY DR. WACKER:

Q What happened after you got to Irrenlohe?

A Since I had to compound the fact that the station in Irrenlohe would also be attacked by low-flying aircraft, it was my first job to get the prisoners out of the cars.

Q Where did you go?

A During the day hours, I had a free camp put up in the woods.

Q How was that done?

A The camp was made approximately 250 to 300 yards from the station, the prisoners were taken there, and a chain of guards was thrown around.

Q What orders did the guards have?

A The guards had to act to their commonly known guard orders.

Q Did you make it known to the prisoners that you were the leader of the transport?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q Did you tell the prisoners anything?

A I had something transmitted to the prisoners before leaving the station of Weiden for Irrenlohe.

Q What was that?

A After the mailroom had been looted, Sergeant Brusch informed me that the station master had requested punishment. It was impossible for me at that time and I didn't even try to find out the guilty parties. Furthermore, I thought that the prisoners

would not know which was right and which was wrong because of their long imprisonment and certainly they were not familiar with the laws of order. However, I had the prisoners informed by way of the interpreter that if anything should happen again, I would act according to the rules of war and that the guards had orders to shoot in case of escape.

Q What day did you leave Meiden?

A April 17th in the evening.

Q What day did you go into the camp at Irrenlohe?

A On the 18th of April, during the day.

Q Did anything else happen--did anything exceptional occur on the 17th of April?

A I can't state that.

Q Did anything unusual happen the next day,

A Well, on the 19th of April, there had been an airraid attack of low-flying aircraft in the morning hours.

Q Did you have any dead or wounded?

A No.

Q Did anything else exceptional occur that day?

A Nothing unusual occurred. It was just my job to get food into the hands of the prisoners.

Q Did you succeed?

A Yes.

Q What happened the next day?

A I had realized that it was impossible to go ahead with this transport by train.

Q Why?

A The station in Schwandorf had been destroyed completely. Any repair work was again crashed by the American airforce.

Q Where is Schwandorf?

A Several stations past Irrenlohe.

Q What did you do?

A April 20th, during the morning hours, I was on my way to get vehicles and food for the transport. During these morning hours a severe bombing raid took place on the station in Irrenlohe.

Q Approximately how long after this bomb raid did you return?

A One to one and a half hours later.

Q What did you find when you got back?

A When I returned, Sergeant Brusch reported to me that a severe bomb attack had taken place and also a strafing attack and that the prisoners had escaped to take shelter and find cover in farms and houses as well as the SS guards and that upon this opportunity, approximately 100 prisoners had escaped.

Q Were the prisoners counted at that time?

A They had not been counted until my arrival.

Q Were they counted later on?

A After my return, I gave orders that the territory should be searched immediately for dead and wounded. Outside the prisoners had to be counted.

Q Did you find any dead and wounded?

A No.

Q What was the result of the count?

A There were 108 prisoners left.

Q Did Brusch report anything else to you about anything that occurred while you were absent?

A Brusch told me that the commander of the engineer construction battalion had been there with several officers and

had complained bitterly that troop quarters as well as villages in the vicinity had been looted. He requested severest punishment and that I was to report to him immediately upon my return.

Q Where were you to report?

A I was to report to the commander who was stationed near there in a farm.

Q Who was in this farm?

A Members of an engineer construction battalion. The officers were there at that time.

Q Did you follow that order?

A After I had given my orders to Brusch, I reported to the commander.

Q Did you have a conversation with this commander?

A Yes. The commander asked me for an explanation as to why the prisoners had gone beyond the chain of guards and why they had escaped. I called his attention to the fact that no one had escaped but there had been a bomb break and that everyone was trying to seek shelter and for that reason, the guards had not made use of their weapons.

Q What was the result of this conversation?

A The commander requested from me that I should send out men immediately to find the looters and arrest those. I told him that I did not have enough guards and that I could not take my guards away from the remaining transport.

Q How many guards did you have altogether?

A I had approximately 12 guards and approximately 10 female supervisors.

Q What did the officer of the railroad construction engineer battalion answer?

A He talked about this affair with officers of his unit and evidently tried to send men of his unit out.

Q What happened then?

A While they were still discussing this, a private first class from his unit brought back three prisoners.

Q Were those prisoners from your transport?

A Yes.

Q To whom did this PFC take these three prisoners?

A He brought them to his commander.

Q What did he say?

A He said that he had picked up these prisoners on the way and that those were evidently the looters who had been in the farms.

Q What did the officer do?

A The commander requested from me severe punishment immediately, that is to say, he made it very clear, immediate shooting.

Q What rank did this officer hold?

A Major.

Q Did you carry out this order?

A No.

Q What did you do?

A I requested from the commander that he would form an emergency court.

Q Did that happen?

A Yes.

Q How was this done?

A The commander took charge of forming an immediate emergency court. It was composed of the major himself as

President, one captain and myself.

Q What is the name of the President and the other officer who took part?

A The name of the major is Warmken, and the name of the captain, I can't remember anymore.

Q What happened then?

A The emergency court came together and charged these three prisoners.

Q Were the personal data of the prisoners taken?

MR. BERKOWITZ: Objected to as leading and I ask that it be stricken.

PRESIDENT: Motion sustained.

QUESTIONS BY DR. WACKER:

Q Please describe to this court here what the emergency court did at that time.

A After the emergency court had gotten together, I received orders as the youngest officer there to take charge of taking down the record. The personal data of the prisoners were determined. The emergency court filed charges because of looting while an airraid was going on in home territory. The evidence was the loot which had been with the prisoners.

Q What did the prisoners carry with them?

A Clothing, shoes and food.

Q Please continue describing the actions of the court.

PRESIDENT: Just a minute, Doctor, are you going to connect this testimony up with the main issue as far as the accused No. 6 is concerned?

DR. WACKER: Yes.

PRESIDENT: Proceed.

QUESTIONS BY DR. WACKER:

Q What did the court then do?

A The court questioned the three prisoners as to whether they would plead guilty. The prisoners did not try to deny it. After that, the emergency court went back for a deliberation. Then the sentence was read which was death by shooting.

Q What happened then to the prisoners?

A After the record had been completed, the commander gave me the order as the youngest officer to have the execution carried out.

Q Did that happen?

A Yes.

Q Where?

A I then went to the free camp where the other prisoners were with these three prisoners and had the loot taken away from them in front of the others.

Q What did you do then?

A After that, I had the sentence read again and warned the prisoners explicitly.

Q What happened then?

A Again I called the attention of the prisoners to the fact that the looting is not only a crime in the home territory, but also an uncomradely act towards their own comrades. I emphasized that the farmers in the surrounding territory had always complied with my requests and had always given us food.

Q What happened to the prisoners then?

A I then carried out the execution with Sergeant Brusch and two guards.

Q Where did the execution take place?

A It took place at the edge of the woods across from the station.

Q What was the nationality of these prisoners?

A Three German prisoners.

Q Did anything else unusual happen this day?

A After the execution had been carried out, I reported this to the commander of the railroad construction engineer battalion and the record was completed. Furthermore, the chief supervisor, the chief female supervisor received orders to mark these names on her list. In the evening, a truck arrived, a truck that I had organized, it was loaded down with baggage and several other things and it was sent away in the direction of Dachau.

Q What happened the next day?

A About noontime, the next day, a farmer brought two more prisoners.

Q What do you mean--"two more prisoners"?

A Those were prisoners who had looted in another village.

Q What did you do with these prisoners?

A I took those two prisoners with guards to the commander and I again requested from him an emergency court.

Q What was the nationality of those two prisoners?

A Those were two Polish prisoners.

Q Did they speak German?

A No.

Q Did the emergency court come together?

A Yes.

Q What was it composed of this time?

A It was composed out of the three same officers as had been the previous day.

Q Please describe these proceedings also.

A Since these prisoners did not understand German, the spokesman of the railroad engineer battalion was called. Proceedings of the trial were the same as had been on the previous day.

Q What were the facts that were determined?

A These two prisoners had looted in a village that had been surprised by them, that is, the inhabitants were surprised.

Q Were they caught by the man who had brought the prisoners?

A Yes.

Q What did this civilian say?

A The man was enraged. He used harsh language and said that they had not only been given what they requested, but on top of that they went out and looted.

Q Please describe what happened to these prisoners.

A In the evening of the 21st of April, the vehicles arrived that I had organized on the previous day.

Q I mean, what happened to those two prisoners that you took to the emergency court?

A Since the facts were known in this case also and the prisoners did admit their guilt, they were sentenced to death and the sentence was carried out immediately.

Q By whom?

A I took them to the camp also and I took two guards and Sergeant Brusch.

Q Did you explain to Brusch that these prisoners had been sentenced to death?

A Yes.

Q Did you tell Brusch that this was an execution?

A Yes.

Q Did Brusch ask you about any details?

A He asked by whom these prisoners had been sentenced.

Q Did you tell him that?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q What else happened this day?

A In the evening the prisoners departed--the march started with 128 female prisoners.

Q Did you not state before that the count was 109 prisoners?

A That is true, but during the 20th and 21st, approximately 15 to 20 prisoners returned.

Q What, if any, count was taken before the departure?

A A count was taken and the number determined was 128.

Q What happened to those prisoners who had escaped and returned?

A It was determined that these prisoners had merely taken cover because of the airraid, that no proof of loot was against them and they were not punished.

Q Where did the transport go to from this camp in Irrenlohe?

A In the evening I got two horse-drawn carts to which I could put sick prisoners and old prisoners and food.

Q Did that happen?

A We marched approximately 15 kilometers at that time to Altenschwand.

Q Did anything unusual happen there?

A We stayed overnight in a barn, slept on straw there and in the morning the food was cooked and at noontime, the march proceeded.

Q Where did you march to?

A I had two tractors and trailers and I loaded all the details onto them and drove to Bruck im Valde.

Q Did you go into that village?

A We drove through Bruck, the camp was made in a factory building in a barracks.

Q Did anything exceptional happen?

A I merely had them cook food in the evening hours and then ordered the night rest. Stretch it out tremendously.

Q What happened the next morning?

A In the early morning hours, I was alarmed by the local commander and was informed about the approach of American troops.

Q Do you know the name of the local commander?

A No.

Q What did you do?

A From my detail of 188 prisoners, I left behind 11 who were sick, in this building. The remaining food was packed into knapsacks which could be carried by two persons.

Q What was the strength of the prisoners you had with you at that time?

A 117 was the strength.

Q Where did you march to?

A We marched on the road from Bruck to Roding.

Q Please describe the march from Bruck to Roding.

A On the road itself there was a lot of traffic of vehicles, etc., because the noise, the shooting of American tank guns could be heard.

Q Please describe who was on the roads.

A Supply columns of the Wehrmacht, vehicles of the SS, ambulances going in the other direction, vehicles of inhabitants, dispersed troops of the Wehrmacht and SS.

Q What happened during this march?

A Because of this heavy traffic, my column was torn apart.

Q What do you mean "my column was torn apart"?

A I had left with one marching column and I was at the head of the column setting the pace, but shortly thereafter, I determined that the column had stretched out tremendously.

Q Why was that the case?

A Vehicles trying to dodge others had driven into the column, spaces were in between and Wehrmacht members were among the column.

Q How wide was the road?

A The road could have been 6 to 8 meters wide.

Q How much room was left when two vehicles passed each other?

A For reasons of security, the prisoners had to jump into the ditch at that time.

Q What did you want to say when you stated before "my column was torn apart"?

A At that time, I sent Sergeant Prusch to the rear to bring parts which had been torn off to the front again.

Q Did he do that?

A Yes.

Q Where?

A Sergeant Brusch reported to me after we had passed the town of Roding.

Q What did he tell you?

A He told me that a female prisoner had been shot to death at the end of the column.

Q By whom?

A It could hardly be determined at that time who had done it. At any rate, he assured me that no one of our own column had done it.

Q What did you do to clear up this point?

A I questioned the guards who had been walking at the end of the column, but they couldn't tell me anything about it.

Q What were you told?

A I was told that Wehrmacht members and SS members had mixed with the columns and that either this prisoner had been pushed away or was trying to take this opportunity to escape.

Q Could you determine anything else?

A No.

Q Where did you finally wind up with the prisoners?

A I reached Roding with the column and met the commander of the concentration camp of Flessenburg at that time.

Q Do you know what day that was?

A That must have been the 23rd of April.

Q Did you have a conversation with the commander?

A Yes.

Q Please describe the conversation.

A I reported to Lt. Colonel Koegel the happenings of Irrenlohe and also delivered to him the records.

Q Was anyone else present during this conversation?

A The leader of the preceding transport of men, Major Berger.

Q What happened after this conversation?

A Lt. Colonel Koegel gave me orders to continue the march and I reached Dachau in day marches.

Q With how many prisoners did you arrive in Dachau?

A I delivered 116 prisoners.

DR. WACKER: No further questions.

PRESIDENT: Cross examination, Mr. Pinter.

CROSS EXAMINATION

QUESTIONS BY MR. PINTER:

Q At the time in Weiden when you saw that transport, did you know that they were prisoners before you talked to Brusch?

A Yes.

Q Could you recognise them by their distinct dress?

A Yes.

Q Did you, yourself, see any evidence of looting?

A No, not in Weiden.

Q Do you know whether Brusch, prior to that time, had shot any prisoners?

A No, I don't know that.

Q Did you talk to the prisoners yourself there at the time you say you took over command?

A I had the things announced through the interpreter which I have already stated.

Q Did you appear in front of the prisoners or did you just tell the interpreter to say that?

A The prisoners were in the cars so that I could not appear in person because I was organizing food, but I sent the interpreter from car to car.

Q I thought you said the prisoners were dispersed in all directions.

A They had been collected.

Q Who was this director of the railroad that asked you to restore order?

A I don't know him by name.

Q Can you describe him to us?

A So far as I can remember, the man had gray hair, a small, not a strong face and he was about my height, approximately 170 centimeters.

Q Was he as heavy in build as you?

A Yes.

Q How far is Irrenlohe from Weiden?

A I estimate 8 kilometers.

Q You said that the prisoners were camped in a woods near Irrenlohe, is that right?

A Yes.

Q What sort of a camp was that?

A A free camp.

PRESIDENT: The court will take a half-hour recess.

(Whereupon the court recessed at 1500 hours.)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present except Mr. Denson who is absent on business of the prosecution; all the defense are present with the exception of Colonel Wilson and Dr. Angelhorn who are absent on business of the accused; all the accused are present with the exception of Lipinski, Oswalt and Losch who are ill, and Winkler, who is conferring with counsel. The interests of those named accused are being taken care of by counsel.

The witness is reminded he is still under oath. If there are any spectators in the court who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination, Mr. Pinter.

HELMUT SCHIPPEL, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY MR. PINTER:

Q Schippel, you talked about general orders to the guards. What were those general orders.

A It was known to the guards they were responsible for the security of the camp. That means that they had to avoid any attempts of escape on the part of the prisoners. The guards had no influence to the interior camp conditions.

Q You were talking about the orders as far as this march is concerned, not about the camp.

A The guards knew that they had to act according to general guard rules. The same orders applied on the march as they did in the camp.

(Schippel,cross)

What were the orders if a prisoner was unable to march? What was to be done with him?

A No order was issued. In this case I would have had to decide it from case to case.

Q You testified that the women were about 300 meters from the railroad station in Irrenlohe?

A Yes.

Q The air attack was on the railroad station?

A Yes.

Q Let you say that the women were dispersed who were in the woods at that time

A After the bomb attack a strafing attack followed. Even the woods were fired on. Outside of that a few bombs fell alongside the edge of the woods and a few in to the woods.

Q You also testified that apparently the three women who were brought in were looters.

A Yes.

Q What evidence was there that they were looters?

A The prisoners had looted goods with them.

Q Yes, but could those goods not have been given to them?

A No.

Q They did not admit they had plundered, did they?

DR. SACKER: I object because that question has been answered already.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. PINTER:

Q Did you send out for fugitives after this air attack?

A Only for wounded and dead.

What was the name of this soldier who brought in the three prisoners, the three women?

A I can't remember the name anymore.

Q What did they find on the women?

A Shoes, clothing and food.

Q You were the secretary of this so-called court, were you not?

A Yes.

Q Can you tell us the names of those three women?

A The name of one prisoner was Froehlich, as far as I can remember. The other name was Strassner or Strasser. Unfortunately, I can't remember the third name.

Q Did you find any military goods on these women?

A No.

What were the names of those two guards who you said were shooting in the brush?

A I did not know the guards by name at that time. I took those guards who were standing around freely at the camp.

Q Have you since found out their names?

A No.

Q Have you seen them since that time?

A No.

Q Did you see them here in the court?

A No.

Q Will you look over into the prisoners' dock and see if you can find any of them?

A No.

Q Who was the man who complained against the two other women, the two following women after the three?

A It was a farmer from the vicinity, from the neighboring village.

Q Do you know his name?

A His name could have been Schmidt, Schmidtbauer, or Schmidthuber.

Q What evidence did you find on those two women of looting?

A These two women again had clothing hidden beneath their skirts. Outside of that we had the testimony of the farmer.

Q What were their names?

A Those were strange names which I did not remember under any circumstances.

Q What was the immediate necessity for executing these women on the spot?

A It was a fact that these two women had looted in war territory during a bomb attack and after a bomb attack from a population that was without any protection.

Q Who determined that?

A The Emergency Court.

Q How did the court know the clothing wasn't the clothing of the prisoners brought along from somewhere else?

A The clothing of the prisoners had been marked.

Q How far from Irrenlohe was the single woman about whom you testified shot?

A I estimate 50 to 55 kilometers.

Q Was it the day following you left Irrenlohe?

A No.

Q How long after?

A The second day after leaving.

Q What was her nationality, if you know.

A That could not be determined.

Q As far as you know, Brusch could have shot this woman because she could not continue on this march?

A No.

Q You were not present, were you?

A Brusch was at the head of the column and was sent back to the rear.

Q Did you go along to the place where these women were executed?

A That was not possible anymore. You have to consider that the fire of the American tanks could be heard already and that everybody in wild escape streamed forward.

Q Did you hear Brusch warn the women at Irrenlohe concerning any attempts to loot or escape?

A The women were warned by me in Weiden.

Q I asked you if you heard Brusch warn them in Irrenlohe?

A No.

Q What authority did you have to try civilian women before a military court of that kind?

A It is the right, the authority, of the Standgericht, the emergency court, in home war territory, if it had been declared as such.

Q What constituted the danger to the State of the women taking a few pieces of clothing?

A You are to consider that those few pieces of clothing were just the beginning. If such a case had not been punished it would follow you would have to compound the fact that escape on a larger scale would take place, probably attacks against the guards themselves and, consequently, it would not only stay theft or looting but it would become murder in the final outcome.

Q Your guards were armed, were they not?

A Yes.

Q These women did not have any weapons of any kind?

A You can carry out an attempt to escape without any weapons. There has to be only a single external condition as there was at that time.

Q Was it customary for the German army to try women without giving them a chance to be heard in their own behalf?

DR. WACKER: I object to this question because the contrary has been testified to by this witness's statement.

MR. MCKAY: The question is objected to for the reason that it calls for a conclusion of the witness, and as being itself argumentative in form.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. PINTER:

Q What authority was there for having this court constituted to try these women?

MR. MCKAY: The question is objected to for the reason it calls for an answer that would be repetitious.

PRESIDENT: Objection sustained.

MR. PINTER: No further questions.

PRESIDENT: Redirect?

DR. WACKER: No further questions.

MR. O'CONNOR: If it please the court, may I take Skierka into the office for questioning?

PRESIDENT: Request granted.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q The way I understand it, according to your testimony, the president of this particular German court-martial ordered the execution of these three women right after the court had come to the findings and sentence, is that correct?

DR. WACKER: May I say that the question might not be quite correct because there is a large difference in German law between a Standgericht and a court-martial.

PRESIDENT: Change the question then from "a German court-martial" to "an emergency court."

THE WITNESS: Sentences of a German emergency court could be carried out immediately after the sentence had been pronounced.

QUESTIONS BY PRESIDENT:

Q What is your authority for that?

A Exceptional conditions, emergency, to set a warning example, or to set an example to scare others.

Q The court is not referring to the reasons but the court is referring to your authority for that particular statement.

A Since I am not a lawyer it was in the hands of the president of the emergency court.

Q Then you want to indicate to this particular court that the actions of a German emergency court were final and were not subject to review by any higher authority?

A No.

Q What do you mean by "no"?

A I am talking about what the president said, it did not have to be reviewed.

Q What is your authority for that statement? Was it covered in any regulations of the Waffen SS or the Wehrmacht?

A It was a general law of war that lootings would be tried immediately in the home war territory in the territory near the front lines, or during bomb attacks, and that the sentences would have to be executed immediately.

Q You mean to say there would be no review of the case by any higher authority whatsoever?

A No, and that was not possible in this case.

Q Can you quote any references to any regulations of the Waffen SS or Wehrmacht as an authority?

A Not at the present time.

Q Was this a legal order or an illegal order on the part of the president of this particular court, ordering the execution of these five people without any review?

A It was legal.

Q But you cannot state any definite authority for it?

A Only according to the general law of war which was known to me from the posters which were posted all around villages.

Was that covered by any particular regulation of the Wehrmacht or SS that you can quote to the court?

A There was the penal code of the Wehrmacht, the MSW. The number is not known to me at the present time.

Q How do you know that these three persons who were executed, these three women right after the first session of the court, were Germans?

A It was determined.

Q How was it determined?

A By questioning.

Q Did you have an opportunity to check any of the records?

A Only one general list existed with the number of the prisoner, the name of the prisoner and the remark "German prisoner, Polish prisoner".

Q Did they carry any other identification that they were German nationals?

A The language.

Q That is all? They didn't carry any identification books or anything of that nature? Cards?

A They were not in my possession. Sgt. Brusch must be able to answer this question.

Q What were the next two persons who were executed?

A They were Polish nationals.

Q Both of them?

A Both.

Q Are you sure about that?

A Yes.

Q In the first execution of the three women, what participation did Brusch have in that affair.

A What task?

Q Just how did he participate in the execution of these three women?

A He was in charge of the blocking off. There were foot paths throughout the woods and partly around the forest. They were used by the civilian population.

Q Did he participate any further in the execution of these three women? The first three.

A No.

Q What about the second execution? Just how did Brusch participate in that?

A Only again to block off and to supervise.

Q Just who carried out the execution of these two Poles that you were talking about?

A I again had taken two guards along.

Q Who were the two guards?

A I don't know them by name.

Q What nationality were they? The guards.

A They spoke German.

Q Did they belong to the Waffen SS or the SS, or what?

A Waffen SS.

Q You can't state to the court their names?

A I had taken care of the detail in Weiden. At that time the names were not known to me because I was most of the time on the way to get food.

Q In this second execution did Brusch participate any further than blocking off the area?

A He didn't do anything else but the burial again.

Q . Were you right there at the time of the second execution?

A As officer who had to take charge of the execution.

Q Was Brusch present at the execution of these last two women?

A As far as I can remember he was standing near there.

Q How near?

A It could have been 20 meters, it could have been more, because he had to walk back and forth.

Q What was he doing right there at the time of the execution?

A He had to take charge of the blocking off.

Q Was he armed?

A Brusch had a pistol.

Q Did he have any occasion to use it?

A Not according to my knowledge. I was standing near there.

Q You fully understand the difference between a legal order and an illegal order, do you not?

A Yes.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT COL BURCHAM:

Q What is a legal order?

A A legal order is an order on the basis of existing laws.

Q Would you say that you believed that these executions were legal because you saw posters and signs of warning?

A Not because of that, not because of that alone.

Q Where did you see these posters?

A In the territory near the front lines. It was in every village.

Q Who signed the posters or what name was attached to the posters?

A They wer signed by the Gauleiter.

Q Did he quote an authority for that ruling?

A He referred to an order by the supreme war commander.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SUYLY:

Q When you took over the transport, whom did you get orders from?

A Major Berger, only about taking charge.

Q What instructions did you get relative to shooting prisoners?

A None.

Q What was the necessity in the second instance where you executed two prisoners, to block off the area?

A As I said before, foot paths were running through the woods that were used by the civilian population.

Q I understood you executed the second two right on the spot, as soon as the trial was over.

A No.

Q Where were they executed?

A They were led past the camp to the first place of execution.

Q How many hours did these trials take, each one of them.

A Thirty to forty-five minutes, if not longer.

Q Was it longer or about that much?

A Approximately three-quarters of an hour.

Q Was that the first or the second trial?

A The first trial was a little longer, you can say the second trial was about three-quarters of an hour.

Q How long would you say the first trial took?

A According to my feeling, about an hour.

Q You had all the witnesses and accused testifying in a one hour period?

A Yes.

LT. COL. SUYLY: No further questions.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DR WACKER:

Q Where was Brusch during the time the emergency court was in session?

A As far as I know he was in the camp, the prisoners' camp.

DR WACKER: No further questions.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY MR PINTER:

Q Did you ever hear the names of the two guards mentioned since that time when the execution took place?

A No.

Q Have you heard them around the camp here?

A Not either. I don't know them.

Q Who gave the actual order to execute these women on the spot?

DR WACKER: I have to object to this question because it has been answered.

MR PINTER: I will withdraw the question and ask it another way.

QUESTIONS BY MR PINTER:

Q Who gave the actual firing order?

A I myself.

Q Did the same guards do the shooting in both instances?

A They had different guards the second day.

Q Did either of the guards participate in both executions?

A No.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q When Brusch made this report to you about one of the female prisoners having been killed at the rear of the column, just what did he say to you?

(Schippel-redirect, recross, court)

A He told me at that time while I was going to the rear, the prisoners shouted to me that one of the prisoners had been killed at the end.

Q Did he make any further explanation?

A He told me that he had gone to the end and had inquired.

Q Just what did you find out when you went to investigate the case? Thus

A I was not able to determine anything anymore.

Q Did you question Brusch any further about the matter?

A He made that report to me and at the same time I was able to determine that. I myself inquired. [illegible] of the court? Apparently

Q During the course of your investigation of this particular incident did you find anybody who had actually seen the woman shot?

A No. [illegible]

Q You could not find a single witness? [illegible]

A Not anymore.

Q Were you satisfied with Brusch's explanation of the incident as reported to you? [illegible] did you?

A I asked Brusch at that time whether it had not been possible to make an investigation right there on the spot.

Q What did he say? [illegible] did you?

A He told me that it had not been possible to get near there anymore because of the wild traffic on the road.

A PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LIEUTENANT COL BURGHARD: [illegible]

Q How many shots were fired when those two Polish women were executed?

A Two. [illegible]

Q How many shots were fired when the first three women were shot?

A Three.

Q Two guards. Who fired the other shot? [illegible]

A The first day?

Q Yes.

A One guard had to fire twice.

Q Can you describe those three women?

A The women looked rather thin, probably because of the transport. They were of slender build. Color of hair varied.

Q What do you mean, color of hair varied?

A Partly blond, partly dark.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

DR WACKER: Nothing further.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR PINTER:

Q As a matter of fact, you did not go to the rear at all to investigate the death of that woman, did you?

A I only received the report after Roding while this thing happened before Roding.

Q You never talked to anybody besides Brunch about that, did you?

A Of course I questioned guards, also.

Q What guards did you question?

A The ones who had to be at the rear of the column.

Q These women were actually hungry on this march, were they not?

A I believe that just this transport was one of the best off as far as food is concerned because of my experience as administrative officer.

Q But you just stated that these women looked thin because of this transport, did you not?

A I have to point out that I only took charge of this transport in Weiden.

Q In what part of the body were the women shot?

A They received a shot from behind.

Q And in what part of the body?

A In the neck.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q What kind of weapons were used during the course of the execution of these five women?

A A pistol.

Q How were the guards armed at the time of the execution?

A With pistols.

Q Is that all?

A During the execution they did not have rifles.

Q Then the court understands that the execution of these five women was conducted by means of pistols, is that right?

A Yes.

Q Were those guards formerly armed with pistols?

A No, with rifles.

Q Where did you get the pistols?

A Sgt Brusch had one pistol, then there was another transport detail in the vicinity. It came from some other camp. There were some SS guards with pistols.

Q Why did you mention about Brusch having a pistol?

A Because his was at ~~the~~ our disposal.

Q Was it used?

A Yes.

Q Who used it?

A A guard.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

DR WACKER: Nothing further.

PRESIDENT: The court understands the defense is finished with this particular witness?

DR. WACKER: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

DR. WACKER: The defense calls as its next witness, Lienerth, in behalf of the accused, No. 6..

JOHANN LIENERTH, having been called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR WACKER:

Q What is your full name?

A Lienerth, Johann

Q Please spell Lienerth.

A L-i-e-n-e-r-t-h.

Q How old are you?

A 31 years old.

Q What is your profession?

A Farmer.

Q What is your nationality.

A German.

Q Where were you born?

A In Roumania.

Q Do you speak German fluently?

A Yes.

Q Where do you reside?

A In Roumania.

Q Where are you at the present time?

A In Germany.

Q Be more exact, in Germany.

DR. WACKER: May I be permitted to ask this leading question? "Are you in Dachau"?

PRESIDENT: Yes, proceed.

THE WITNESS: Yes.

QUESTIONS BY DR. WACKER:

Q Are you imprisoned here in Dachau?

A Yes.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: The court advises you if you should be asked any question that might tend to incriminate you, you have the right to ask the court to refrain from answering that particular question.

THE WITNESS: Yes.

QUESTIONS BY DR. WACKER:

Q Were you ever in Wolkenburg?

A Yes.

From when to when?

A From the 23rd of August 1944 until April 1945.

Q Is Wolkenburg an outcamp of Flossenburg?

A Yes.

Q What kind of camp was Wolkenburg?

A A women's camp.

Q In what capacity were you in Wolkenburg?

A As guard.

Q What rank did you hold?

A Private.

Q To which branch of the service did you belong?

A SS.

Q Is that Waffen SS?

A Yes.

Q Were you a party member?

A No.

Q Who was the detail leader in Wolkenburg?

A Sgt. Brusch.

Q Would you recognize Brusch if you would see him today?

A Yes.

Q Please point him out, if you see him.

DR. WACKER: The witness has identified No. 6 as being Brusch.

Q How many female prisoners were there in Wolkenburg?

A Between 360 and 370.

Q Did you work in any other camp before you came to Wolkenburg?

A Yes.

Q In what camp?

A In Lublin.

Q Can you describe briefly the difference between a men's camp and a women's camp?

A Yes.

MR. HALL: May I have just two minutes with Dr. Wacker, please.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place.)

PRESIDENT: Court will come to order. Proceed, Doctor.

QUESTIONS BY DR. WACKER:

Q I ask the witness to give a brief description of the difference between a men's camp and a women's camp. What was the basic difference between the detail leader of the men's camp and the detail leader of the women's camp?

A The difference was that the detail leader was not allowed to enter the billets of the women without being accompanied by a woman supervisor.

Q What power of punishment did the detail leader of the women's camp have?

MR. PINTER: We object to that. It calls for a conclusion on the part of the witness.

DR. WACKER: I don't believe so because I asked him whether he knew it. I am not asking for a conclusion but he is to state what he knows.

PRESIDENT: Objection overruled.

THE WITNESS: The difference was that the commando leader, the detail leader of the women's camp was not allowed to enter the billets without being accompanied by a supervisor.

QUESTIONS BY DR. WACKER:

Q My question was, what power of punishment did the detail leader of the women's camp have?

A The female supervisors had the powers of punishment.

Q Mr. Lienerth, did you take part in the evacuation march of the camp?

A Yes.

Q When was that?

A 13th of April, 1945.

Q To where were you supposed to march?

A To Flossenburg.

In what capacity did you act during this march?

A As guard.

Q How many guards were present altogether during the march?

A Six

Q Who was the leader of the column?

A Sgt. Brusch.

Q With how many prisoners did you leave Wolkenburg?

A Between 360 and 370.

Q Where did the column go to from Wolkenburg?

A The place is not known to me.

Q Did the column ever reach Weiden?

A Yes.

Q Did anything unusual happen between Wolkenburg and Weiden?

A No.

Q How many days did it take to go from Wolkenburg to Weiden?

A Three.

Q How did you arrive in Weiden? I mean, on foot, by vehicles or by train?

A Partly on foot, partly with the railroad.

Q I mean, how did the column reach Weiden?

A When or what?

Q Did you march into Weiden or did you drive into Weiden?

A Drove.

Q How?

A By train.

Q How far did you travel with this train?

A That is unknown to me, too.

Q Was it a large distance?

A No.

Q How long did you travel by train?

A Approximately eight hours.

Q With how many prisoners did you reach Weiden?

A Between 360 and 370.

Did you lose any prisoners up to your arrival in Weiden?

A No.

Q What happened in Weiden?

A In Weiden we were attacked by planes.

Q Please describe this attack.

A The prisoners escaped and looted the post office building.

Q Where were you? I'm talking about the guards.

A In the air raid shelter.

Q Where was Brusch?

A Also.

Q And where did the prisoners go?

A They also took cover and while doing so looted the surroundings.

Q What happened after the air raid?

A After the air raid we had a big fight with the station master.

Q Why did you have a big fight with the station master?

A Because the post office had been looted.

Q What was the result of the difference you had with this station master?

A Later on 1st Lt. Schippel arrived and took charge of the detail.

Q What happened then?

A In the evening we continued to travel by train.

Q Did you not state that the prisoners had escaped?

A Yes, but we in the evening continued to travel with the rest. The remaining prisoners, part of them, had returned.

Q Did anyone try to recapture the fugitive prisoners?

A We went around shortly in the vicinity. Those who came back, came back and those who didn't, they didn't.

Q Did you know how many prisoners you collected again?

A I don't know exactly anymore.

Q Where did you go to by train then?

A In the evening we traveled again and arrived in Irrenlohe in the morning.

Q Again I have to refer to the station in Zeiden. Is there a forest?

A No.

Q Is there a forest in Irrenlohe?

A Yes.

Q How far is it away from the station?

A Between 200 and 300 meters.

Q What was done in Irrenlohe?

A Again we had an air attack in Irrenlohe and we took cover in the woods.

Q What happened to the prisoners in the woods?

A In the evening we again returned to the train, to the cars, because it was quite cold, and the next morning we had another air raid so we made camp in the woods.

Q How was this camp placed in the woods?

A The prisoners were together and the guards were around the prisoners.

Q What instructions did you receive as guard?

A We didn't have any special orders, just the general orders.

Q What happened at this free camp, anything unusual?

A In the noon hour of the 20th there was a great air raid again.

Q What did you do during the air raid and what did the prisoners do?

A The prisoners again dispersed to look for cover and many of them took a powder again.

Q Do you know how many of them escaped?

A In the evening it was determined there were approximately 109 left.

Q Did anything else unusual happen?

A Towards evening three officers of the Wehrmacht came.

What did they want?

A And again they made a big fight because the prisoners had looted the farms in the vicinity.

Q What happened then?

A Later on a member of the Wehrmacht brought three prisoners.

Q What happened to those three prisoners?

A Because looted goods were found on their persons they were sentenced by the emergency court.

Q How do you know?

A 1st Lt. Schippel told us that.

Q What happened to the three prisoners?

A The sentence was carried out.

Q Were you present when the sentence was carried out?

A No.

Q Where were you?

A I was at the camp.

Q As what?

A As a guard.

Q Do you know who executed the sentence?

A No.

Q Did anything else unusual happen that day?

A No.

Q What happened the next day?

A Again the next day a farmer brought two prisoners. Again looted goods were found on their persons and they were sentenced to death by the emergency court, the Standgericht.

Q Was this sentence executed also?

A Yes.

Q By whom?

A I don't know.

Q Where were you?

A Again in the camp.

Q Did anything else happen in the woods at Irrenlohe?

A In the evening the baggage belonging to the supervisors and everybody else who belonged to the camp was loaded onto a truck.

Q What happened then?

A The next day we continued our drive with vehicles.

Q Did you have any head count?

A Yes.

Q Do you know how many prisoners you had when you marched off?

A 128.

Q Where did you march to?

A We marched during the night and in the morning at 4 o'clock we got to that village. It is not known to me.

Q Where did you finally wind up?

A At the end?

Q Yes.

A Here in Dachau.

Q With how many prisoners did you arrive in Dachau?

A 116.

Q You just said you started out with 128. What happened to the other 12?

A 11 were left back in the new factory building.

Q Why were they left there?

A Because they were sick.

Q What happened to the twelfth?

A I also heard about the twelfth that she had been killed on the road but I don't know by whom.

Q Did anything else unusual happen during the march?

A No.

MR. BERKOWITZ: I ask that the witness be instructed not to communicate with anybody until he takes the stand in the morning, particularly that he be instructed not to converse or get any information from the former witness, Schippel.

PRESIDENT: The witness is instructed that he will not discuss the Flossenburg case with anybody until the court reconvenes tomorrow morning.

THE WITNESS: Yes.

PRESIDENT: Court will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 11 December 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at .....
in (Address of Court)
(Anschrift des Gerichtes)

on ..... 194 .....
am

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

Copy of above served on accused ..... 194 .....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

Case No. .....

~~*Summary~~
~~*Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 11 December 1946

Pages 7927 - 7986 Incl.

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

~~Members of Court:~~

WITNESSES:

JOHANN LIENERTH
JOSEPH MILLE
FRANZ BERGER

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH FLICK, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

11 December 1946 0915 - 1700 Hours Pages 7927 - 7986 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
JOHANN LIENENTH		7927	7930		
JOSEPH MILLE	7930	7937			7938
FRANZ BLAUER	7943 7960 7969	7976			

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-67	Statement, Edwin Rostler	7938	7941
D-67-A	Translation	7938	7941
P-86	Ration Allowance	7977	
P-87	Request for Skilled Workers	7980	
P-88	Request Certificates (32) for Skilled Workers	7982	
P-89	Document re transfer of prisoners	7986	

Camp Dachau, Germany
11 December 1946

MORNING SESSION

(Whereupon the court reconvened at 0915 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court, prosecution and defense are present; all the accused are present, with the exception of Lipinski, Losch, Oswalt, Bisbusch, Mussfeldt, Furst, Neye, Friedrich Becker, and Ginschel, who are ill and who are absent. The interests of those named accused who are absent are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court would like to see the senior prosecutor and senior defense counsel.

(Whereupon off-the-record discussion was had between the court and counsel.)

JOHANN LIENERTH, called as a witness by the defence, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter as follows:

PRESIDENT: Continuation of direct-examination, Dr. Wacker.

DR. WACKER: I am finished.

PRESIDENT: Cross-examination.

CROSS EXAMINATION

QUESTIONS BY MR. PINTER:

Q How many guards were there at Wolkenburg?

A Five men and the detail leader.

Q And did you know the other guards that were there at Wolkenburg?

A Yes.

Q Will you give their names?

A Yes.

Q Go ahead.

A Becker; Oswalt, Josef; Jung, Lambert; and Brestowanski, Josef.

Q You mean there were five besides yourself and the commando fuehrer, is that right?

A No, including myself.

Q Were these prisoners on the transport ever transported by truck?

A No, only on two trailers.

Q You testified that there were no prisoners lost before Weiden. How do you know that?

A I know that because the number was correct in Weiden.

Q And I understand you to testify that you took cover, or camp was taken, in a woods after the air raid near Irrenlohe.

A Yes.

Q What position did you have on the transport?

A Guard.

Q Whereabouts were you on the march after Irrenlohe?

A I was always along.

Q Do you know anything about the executions that took place there—of the three women?

A No.

Q You don't know who took part in them?

A No.

Q Do you know when they were executed?

A The first ones?

Q Yes, the first ones.

A Toward evening, the 20th of April.

Q At that time who was with you with the women, guarding the rest of the women?

A I was there, Brestowanski, and Jung, Lambert, and the three dog handlers and Becker, Josef.

Q Who were the three dog leaders?

A Oswalt, Anton; and Wolf, Anton; and I don't know the name of the third now—oh, yes, it was Neu, but I don't know his first name.

Q Do you know when the other two women were executed—the second?

A The next day.

Q And who was present at that time guarding the women with you?

A I, Becker, Prestowanski, Jung, Lambert, Wolf and Neu.

Q Will you repeat that, please?

A Becker, Prestowanski, Jung, Wolf and Neu; and Oswalt, Josef was out to get food.

Q How do you know Oswalt was out to get food?

A Because he left before.

Q How far were you from the place of execution?

MR. HALL: If the court please, the question is not clear as to which execution he is speaking of.

PRESIDENT: The objection is sustained.

Q Where were you when the first execution took place—how far from the place of execution?

A Between three and four hundred meters.

Q And at the time of the second execution?

A The same.

Q Do you know anything about a woman who was shot on the road after Irrenlohe?

A Before Irrenlohe or after?

Q After Irrenlohe.

A Yes, between Kruck and Roding there was great traffic on the road and the column stretched.

Q And where were you at that time with reference to the woman who was shot?

A I was at the point of the column and after I had marched for about twenty kilometers I heard a woman had been shot allegedly, but nothing could be determined because soldiers and SS men mingled with the column.

Q At the time the first execution took place, who of the guards was missing, was not with you at the place where the women were quartered?

A Oswalt, Josef.

Q Who else?

A No one else.

MR. O'CONNOR: May I have the last question and answer repeated, please.

(Whereupon the reporter read the last question and answer.)

Q At the time of the second execution, who was missing of the guards?

A Oswalt, Anton.

MR. PINTER: I believe that is all.

PRESIDENT: Redirect?

DR. WACKER: Nothing further.

PRESIDENT: Questions by the court? Apparently none. The court understands the defense is finished with this witness.

DR. WACKER: Yes.

MR. HALL: I have one question.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Mr. Lienerth, will you please look into the dock and see if you can identify the man you have described as Josef Becker.

A Sitting right here (indicating).

MR. HALL: Let the record show that the witness has correctly identified the accused Becker, No. 2.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: Defense calls as its next witness Joseph Mille, on behalf of the accused Berger, No. 3.

JOSEPH MILLE, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q r. Mille, what is your full name?

A Joseph Mille.

Q Please spell Mille.

A M-i-l-l-e.

Q How old are you?

A 56 years old.

Q Are you married?

A No.

Q Where do you reside?

A Flossenburg No. 17.

Q What is your profession?

A Painter.

Q Mr. Mille, were you ever in the concentration camp of Flossenburg?

A Yes.

Q From when until when?

A From the beginning to the end.

Q Please give the exact dates.

A 3rd of May 1938 until the 19th of April 1945.

Q Were you there as a prisoner?

A Yes.

Q Did you get acquainted with a Major Berger in Flossenburg?

A Yes.

Q Would you recognize him if you would see him today?

A Yes.

Q Please point him out.

A No. 3.

DR. WACKER: Let the record show that the witness has identified No. 3 as being the accused Berger.

Q How did you get acquainted with Berger in Flossenburg?

A Major Berger was transferred to Flossenburg about the middle of December. Because of that the apartment had to be renewed. I, myself, did part of the work there and got acquainted with Major Berger personally.

Q The December of what year was that that Major Berger came to Flossenburg?

A 1944.

Q Did you work as a painter in the camp?

A Yes.

Q And was that the reason for which you came to the apartment of Berger?

A Yes.

Q Please explain what you talked to Berger about.

A At first the conversation pertained to the work itself. Mr. Berger then conversed with me about the political situation. During this conversation I made the remark "You surely don't believe that you will win the war yet".

Q What did Berger answer?

A He didn't say anything then; he shrugged his shoulders, smiled thinly, and left the room. Of course, after that I spent the night in fears.

Q Why were you afraid?

A Because I did not know Berger personally then and I had to assume that he would report me to headquarters, which would have been my head.

PRESIDENT: Will the witness sit up and talk right to the court--sit right up. Just take your time but talk directly to the court.

THE WITNESS: Yes.

Q Why do you say that that would have been your head?

MR. BERKOWITZ: Objected to as immaterial.

PRESIDENT: Objection overruled.

A It was forbidden for us, and I believe it was forbidden to the SS also, to converse about political matters or the course of politics.

Q Did you have any other conversations with Berger?

A At a later time this conversation repeated itself in my workshop.

Q What was the topic of this conversation?

MR. BERKOWITZ: Objected to as immaterial.

PRESIDENT: Dr. Wacker, are you going to be able to connect this up with the material issues of the case?

DR. WACKER: I should like to prove with this the relations Berger had to prisoners.

PRESIDENT: Objection overruled. Proceed.

Q What was the topic of this conversation?

A The topic of this conversation was actually the same, however, it was caused after I had had a conversation with the orderly in the headquarters building. His name was Oblak. We had a conversation about Berger. Oblak told me that Berger had caught him listening to the British broadcast. Berger asked him what he was doing there but he did not make a report.

Q Was it forbidden for you to listen to British broadcasts?

A For us prisoners with the threat of death sentence.

Q Did Berger report you?

A No.

Q Do you recall the 15th of April 1945?

A Yes.

Q Please tell the court what you observed that day.

MR. BERKOWITZ: Objected to as irrelevant unless it is tied up with the main issue. The question is vague.

PRESIDENT: It is very difficult to tell at this stage whether or not it will be tied up.

MR. BERKOWITZ: Yes, sir, but I don't know whether he is referring

to the weather or whether he is referring to some other condition. The question is vague and should be tied down to material issues. In its present form it is objected to, sir.

PRESIDENT: The objection is sustained. Clarify your question, Dr. Wacker.

DR. WACKER: If I put the question another way then they will object to it as leading.

Q Did you hear a conversation on the 10th of April between Berger and Koegel?

MR. BERKOWITZ: That is objected to as leading. There are other ways to handle it.

PRESIDENT: In order to speed this matter up the court will overrule the objection. Go ahead.

A Yes.

Q Please explain what you heard.

A By request I had to work in headquarters and I was to come to the adjutant Baumgartner. Since Baumgartner was busy with another gentleman, I was forced to wait in the corridor. While pacing up and down the corridor, I heard a very loud conversation in the duty room of the commander and I recognised the voices of Berger and Koegel. I could only hear parts of this, because I could not remain standing at the door without being a spy. When I was standing at the window I heard parts of a conversation which pertained to a transport. I don't know whether I am allowed to say this here now but what I am saying is the parts of a conversation being put together to one sentence.

Q Please give us the meaning of what you heard.

MR. BERKOWITZ: That is objected to. It calls for a conclusion on the part of the witness. The witness may testify as to what he heard but not as to what he believes it means.

PRESIDENT: The objection is sustained. Dr. Wacker, just have the witness recall the conversation to the best of his ability.

Q Mr. Mille, please tell us what you heard.

A I heard the word "transport" often, or at least two or three times. Berger made remarks such as "Lieutenant, First Lieutenant"; these remarks being made by him with "Lieutenant, First Lieutenant".

Q What else did you hear?

A Then I heard a loud exchange of words and finally Koegel yelled everything; and in the meantime the door had opened a little bit, was ajar, and I heard Koegel say the words "To use weapons". In the meantime Berger left the room cursing loudly, and Baumgartner had also finished his business with the other gentlemen and had to go to another room, so that I left headquarters.

Q Did you find out anything else through remarks how the relations were between Koegel and Berger?

MR. BURKOWITZ: That question is vague; it is indefinite; it is leading.

PRESIDENT: Objection sustained. The question is leading.

Q What reputation did Berger have among the prisoners in the camp?

A In general Berger did not bother much about the prisoners in the camp, but when he met a prisoner his salute was friendly, kind, and for that reason Berger commanded a certain respect among the prisoners which others like Koegel and Baumgartner did not have.

Q From when until when was Koegel camp commander?

A I can't state definitely. At any rate, he was commander in Flossenburg for the past two years.

Q Was he absent during this time?

A Assumably, because he was on tours of duty.

Q Who was his deputy during this time?

A Since Captain Fritsch, the camp leader had left, Baumgartner almost exclusively took over as deputy whenever Koegel was absent. He always took over the administrative work which had been left by Fritsch upon his departure.

DR. WACKER: No further questions.

MR. MCKAY: If it please the court, I have a couple of questions on behalf of the accused, No. 21.

PRESIDENT: Proceed, Mr. McKay.

QUESTIONS BY MR. MCKAY:

Q In what block did you live while you were in Flossenburg, Mr. Mille?

A Block 2.

Q During the time that you lived in block 2, did you come in contact with a fellow prisoner by the name of Jakubith?

A Yes.

Q Do you know what Jakubith's reputation was in the camp with regard to his conduct toward prisoners?

A Jakubith was a prisoner in block 2 just like I and the other prisoners and his capacity as foreman in the stone quarry had nothing to do with the camp.

Q Do you know what his reputation was as far as his work in the stone quarry? I mean as to his handling of prisoners.

A I never had any trouble personally with Jakubith and I never saw that there was any trouble between him and other prisoners in the block.

Q Did you ever hear of him having trouble with other prisoners?

A That I couldn't say.

Q Do you think you would recognize Jakubith if you saw him again?

A Yes.

Q Look over the prisoners in the dock and see if you can find the

man you knew of as Jakubith.

A No. 21 (indicating).

MR. McKAY: Let the record show the witness has identified the accused No. 21 as Jakubith.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Millo, what is your nationality?

A German.

Q What was Oblak's nationality?

A Austrian.

Q Do you know who was designated in December as deputy camp commander by official orders?

A Are you talking about camp leader?

Q Deputy camp commander.

A During the past year, or the last half year I should say, Koegel was never absent from the camp and anxiously avoided to have any deputy.

Q Will you answer my question, please.

A I know that Berger once was the deputy to Koegel.

Q Will you answer my question please.

PRESIDENT: Reporter, please repeat the question.

(Whereupon the reporter read the question as follows:

"Do you know who was designated in December as deputy camp commander by official orders?")

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

DR. WACKER: Nothing further.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Do you know whether or not there was a deputy camp commander in December 1944?

A No.

Q You say that Major Berger came to camp about the middle of December. When did he start to work on his duties?

A I can't say that either. He was in camp, but when he officially started his duties, I don't know.

QUESTIONS BY COLONEL SMYLY:

Q You stated on one occasion you knew that Berger was deputy camp commander. What occasion was that?

A Koegel was absent for one or two days, most likely on a tour of duty, but I can't say that exactly. Berger took a quick check of the camp; that was when the conversation took place in my workshop.

Q You don't know when that was?

A That was later; that was in '45; it could have been February '45.

PRESIDENT: Redirect.

DR. WACKER: Nothing further.

PRESIDENT: The court understands the defense is finished with this witness?

DR. WACKER: Yes.

PRESIDENT: The witness is excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: I offer the statement of Edwin Roestler for identification as Defense Exhibit 67, and the translation thereof as Defense Exhibit 67-A.

(The documents referred to were marked for identification as Defense Exhibit 67 (the original) and 67-A (the translation.))

PRESIDENT: Court will recess until ten-thirty.

(Whereupon the court recessed at 1000 hours.)

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Lipinski, Losch, Oswalt, Eisbusch, Mussfeldt, Wurst, Neye, and Ginschel, who are ill and whose interests are being taken care of by their respective counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Defense.

DR. WACKER: I offer into evidence a sworn statement of Edwin Rostler, which has been identified as Defense Exhibit 67 and 67-A.

PRESIDENT: Any objection on the part of the prosecution.

MR. BERKOWITZ: May it please the court, the prosecution will offer no opposition to acceptance of this document in evidence. However, the prosecution desires to point out to the court in order that they might determine the value to attach thereon, the fact that this statement was taken in Vienna in July, 1946. At the time I went to Vienna in September, 1946, I requested from the defense a list of all statements which had

b en previously received so that I might have an opportunity to cross-examine the persons who made the statements. Some statements were furnished and some were not, as I later discovered. This is one of the documents not furnished me, so that no opportunity was given me to cross-examine the man who made and signed the statement.

PRESIDENT: The court understands, Mr. Prosecutor, that the prosecution has no objection with the explanation as noted.

MR. BARKOWITZ: No, sir.

PRESIDENT: Subject to objection by any members of the court, Defense Exhibit 67 and 67-A will be received by the court and given such weight as the court sees fit.

(The documents heretofore marked Defense Exhibit 67 and 67-A for identification were received in evidence as Defense Exhibit 67 and 67-A, are attached hereto, and made a part of the record.)

DR. WACKER: I should like to read Defense Exhibit 67, the sworn statement of Edwin Rostler.

PRESIDENT: You may proceed.

(Whereupon Dr. Wacker read Defense Exhibit 67, the statement of Edwin Rostler, followed by the reading of the English translation of the statement of Edwin Rostler by the interpreter, as follows:

"I, Edwin Rostler, born 23 May 1913 in Vienna, Austrian citizen, residing at Vienna VI, 12/I Kostlergasse, was an internee of the Flossenburg CC from 21 Sep 1944 until 23 April 1945. (Prisoner's Number 27298).

"I spent the first days in the block for new arrivals and then came to block IV. A short time later I was transferred to block XVIII. There I stayed until the beginning of March 1945. For the last time I was transferred to block III and stayed there until the camp was evacuated.

"For the first time I was assigned to the Altenhammer detail. Subsequently I was assigned to the Motorpool

detail as a clerk. In November 1944 I had the opportunity to get acquainted with the then SS Sturmbannfuehrer (SS major) Franz BERGER. He is of tall (appr. 177 cm), fine, slender, and well-trained figure; black, slightly greyish hair. Within the course of my duties as a clerk of the motorpool, I continuously was in direct contact with Franz BERGER until the end of April. From the first day on his quiet, humane and proper behavior struck me as well as my other fellow prisoners (Ferdinand BERGER, CC-No. 12936, Stanislaus WIEWIOGH-KOWALSKY, CC-No. 4633) and others whose name and CC-number have escaped my mind, in a most pleasant way as being strongly contrary to camp commander SS Obersturmbannfuehrer (SS Lt. Col.) KOEGEL's behavior. The behavior of the then Sturmbannfuehrer Franz BERGER as above described remained always the same during the period of time from November 1944 until April 1945. Franz BERGER often stayed in the command area of the motorpool and also frequented my orderly-room. Contrary to the camp commander of the Flossenburg Camp, Obersturmbannfuehrer (Lt. Col.) KOEGEL, Sturmbannfuehrer (Major) Franz BERGER was even accessible to private conversations. In the course of the numerous conversations I held with him I had the opportunity to notice that his opinions and thoughts were most strictly opposite to those of other SS officers. In the course of his talks in the clerk's office, Sturmbannfuehrer (Major) Franz BERGER uttered expressions to me alone, and sometimes even in the presence of an SS man subordinate to him, SS Hauptscharfuehrer (M/Sgt) ZOBEL, Hans, which evidently showed that he did not agree to the usages existing in the concentration camp. In January 1945 I happened to listen to a telephone conversation made by the then detail leader of the motorpool, SS Hauptscharfuehrer (SS M/Sgt) Willimar OPPERMANN to Sturmbannfuehrer (Major) Franz BERGER, which had the purpose of improving the food for the prisoners in the detail. Sturmbannfuehrer (Major) Franz BERGER strove for it very hard and additional food was actually provided. In the detail, this success in improving the food was said to be due to the then Sturmbannfuehrer Franz BERGER's making use of a temporary absence of the camp commander Obersturmbannfuehrer (Lt. Col.) Koegel. During my presence, the motorpool detail consisted of an average of 40 to 60 prisoners, and it never occurred that anybody was beaten or otherwise mistreated when Sturmbannfuehrer (Major) Franz BERGER was present. At no time have I seen Sturmbannfuehrer (Major) Franz BERGER giving orders to subordinate SS men or capos, to beat prisoners or otherwise mistreat them. Sturmbannfuehrer (Major) Franz BERGER was within the camp known as a "decent fellow" and I have never heard anything disadvantageous about him on the part of my fellow-prisoners.

"This statement was written by me on three pages, in my own handwriting, in Vienna VI, 12/I Kostlergasse, Austria, on this 17th day of July 1946, 1330 hours, voluntarily and without compulsion. I swear by God the Almight, that I said nothing but the pure truth, did not keep anything secret nor added anything.

/s/ ROSTLER

"Subscribed and sworn to before me at Vienna, Austria, this 17th day of July 1946,

/s/ JOSEPH KIRSCHBAUM
Investigating Officer.")

PRESIDENT: Defense.

DR. WACKER: The defense calls the accused Franz Berger to the witness stand. He will testify in his own behalf.

PRESIDENT: Berger, the court understands you desire to take the stand and testify in your own behalf.

ACCUSED FRANZ BERGER: Yes.

PRESIDENT: Dr. Wacker.

FRANZ BERGER, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Franz Seraph Berger.

Q How old are you?

A 36 years, 11 months.

Q Are you married?

A Yes.

Q Do you have children?

A Two.

Q Where do you reside usually?

A Berlin.

Q Where did you go to school?

A Munich.

Q What school?

A Public School and Gymnasium High School.

Q What profession did you take after you finished school?

A I went into the chemical industry as a volunteer.

Q Were you a member of the party?

A Yes.

Q Since when?

A Since 1 October 1933.

Q Did you have any functions in the party.

A No.

Q When did you join the SS?

A The first of August 1933 I joined the SS as an officer candidate, the Verfuengungs.

Q When did you become an officer?

A 1935.

Q That happened then?

A At first I was with the Regiment Deutschland in Munich. Then I was transferred to Jueterbog.

Q Did you perform any duties in a concentration camp until the war?

A No.

Q Were you drafted into the Army when the war started or how was that?

A Shortly before the war started I was in District 1 to take my examination as company commander, and in the Polish War I participated as company commander with the Regiment Adlershof--regiment of the Waffen SS.

Q Please tell the court briefly what campaigns you participated in.

A After the Polish War, I was transferred to the Third Panzer Grenadier Division, participated in campaigns in Holland, Belgium, and France. I was wounded in Southern France, and I was transferred to Germany for one-half year to a hospital.

Q What happened when you were released from the hospital?

A After being discharged from the hospital, I returned to my division. When the war against Russia broke out, I went to the front against Russia.

Q How long did you participate in the War against Russia?

A I was only a few months in the campaign in Russia when I was transferred to a hospital in Berlin because of a damaged heart muscle. I was classified as capable of doing garrison duty, but I requested that I could do my duties in a foreign country.

Q Where were you sent then?

A At first I was trained in Germany as welfare officer. Then I was sent as welfare officer for all branches of service to Denmark.

Q How long did you stay there?

A I then became commander of the Nordic and Baltic states, and then in 1943 I was transferred to Italy to activate new Divisions.

Q Where did you go then?

A On the first of January 1944 I was sent to Budapest as commander of the southeast territory.

Q What task did you have there?

A Welfare officer for all branches of the Wehrmacht for all of the Balkan states, as well as Italy.

Q How long did you stay in Budapest?

A I stayed in Budapest until May 1944.

Q What was the reason why you left there?

A In June 1944, I was arrested because of insulting the Reichsfuehrer of the SS.

Q Where did you go?

A I was sent to Denmark to the prison camp of Hilleroed-Horseroed.

Q How long did you stay there.

A Doctor, I have to mention something to this. Outside of this insult of the Reichsfuehrer of the SS, I was accused of having tolerated black market in my offices.

Q What else were you accused of?

A I was also accused that a German lady by the name of Feind had left my room in pajamas. Outside of that I was also supposed to have had a lady--I can't remember the name right now.

Q What happened to these charges?

A They were dropped.

Q What happened to you?

A I was released from protective custody.

Q And where did you go?

A I again had to report to Berlin to the main welfare office.

Q Where were you transferred?

A I was transferred to the Economic and Administrative Head Office and sent to Flossenburg.

Q When did you arrive in Flossenburg?

A I arrived in Flossenburg during the last days of November.

Q When did you start your duties and where was that?

A The end of November 1944 I reported to Lt. Colonel Koegel. At first I received the task of getting the SS Personnel Section into shape and to take charge of the Wehrmacht motorpool.

Q How long did that take?

A I believe the 7th or 10th of January 1945 I became commander of the guard battalion. Lt. Colonel Koegel had an extended tour of duty in mind with his adjutant, Baumgartner, and I was to represent him during the time, and that was written down in an order.

Q Did Koegel undertake this trip?

A He never got around to take this extended trip.

Q Can you state any reason why you were designated as deputy camp commander during the absence of Koegel and why permission was obtained from Oranienburg to name you deputy?

A According to camp SOP the camp leader was always the deputy of the camp commander. During my time in Flossenburg the adjutant in Baumgartner was the protective custody camp leader at the same time. Since Baumgartner intended to take this tour of duty together with Lt. Colonel Koegel, I was designated deputy during his absence.

Q Did you actually represent Koegel because of this order designating you deputy?

A Yes.

Q How often?

A Twice.

Q For how long?

A One or two days. I don't remember exactly any more.

Q What did you do in those one or two days?

A I was responsible for the happenings, special occurrences in the camp. As rank oldest officer, I was responsible for actions of the troops during any special events.

Q Mr. Berger, I mean what special orders did you give during those two days?

A None.

Q Where was your usual office.

A At the headquarters building in the personnel section.

Q Please point that out quickly on Prosecution Exhibit 5.

A (Indicating)

MR. GRAY: Let the record show the witness has indicated the block with the Figure 1 outside the prison compound enclosure, and immediately before the gate, in the yard immediately in front of the building which has been heretofore designated as the block leaders house, being on the other side of the area from the block leaders house on Prosecution Exhibit 5.

DR. WACKER: Where was the camp commander's office?

ACCUSED FRANZ BERGER: Here. (Indicating)

MR. GRAY: Let the record show that the witness indicated this office as being on the left side of the same figure heretofore designated.

QUESTIONS BY DR. WACKER:

Q Did you receive any specific orders during Koegel's absence?

A The only orders I had were that I would retain all important mail until he would be back.

Q Did that happen?

A Yes.

Q Did anything unusual happen during the days which you represented Koegel?

A No.

Q What was your job in Flossenburg?

A My job was to lead the guard battalion. Outside of that, the welfare of the families which had taken refuge in the territory of Flossenburg.

Q What activity took most of your time?

A The latter one.

Q What did you have to do with the camp itself?

A As battalion commander I was responsible for the security of the camp.

Q What did you have to do with the prisoners?

A Nothing.

Q How many times did you visit the camp?

A I believe I was in the camp three or four times.

Q How long did your activities as battalion commander last? What I mean to say is--tell the court whether you were acting as battalion commander from the 7th of January 1945 until the camp was deactivated.

A No.

Q What interruptions were there?

A On the 17th of January I took a tour of duty to Berlin.

Q How long did that last?

A From Berlin I went to Niedersachswerfen.

PRESIDENT: Just a moment, Doctor. The court is

confused by your use of the word "camp". The court would like to know what camp you are referring to. Are you referring to the concentration camp or just what?

DR. WACKER: I am referring to the protective custody camp of Flossenburg.

PRESIDENT: Proceed, Doctor.

QUESTIONS BY DR. WACKER:

Q When did you return from this trip to Flossenburg?

A The middle of February.

Q Were your duties as battalion commander interrupted again?

A Beginning of March I had to have a jaw operation done, and was absent from duty for about three weeks.

Q What were your relations with the camp commander, Koegel?

A Doctor, I regret that he is not here. I would rather say it then.

Q Please state what you have to say about it.

A There was a tension.

Q Please give us a few points on that matter.

A Doctor, the man is dead.

Q How long did you stay battalion commander?

A Until 15 April 1945.

Q Please explain to the court the reasons why you did not stay battalion commander.

A On the 12th of April I started a tour of duty by orders of Berlin to Bad Kissingen. I was to report there to a Major of the V Division. When I returned on the evening of the 14th, a friend of Mr. Baumgartner's and also an

acquaintance of Mr. Koegel's had come to Flossenburg from Auschwitz. It is personally known to me that this First Lieutenant Albert had been designated before my a rival in Flossenburg as battalion commander by Lt. Colonel Koegel. On April 15th, Lt. Colonel Koegel found out that I had invited two prisoners into my home. He reproached me for that and relieved me of my duties as battalion commander. He then designated First Lieutenant Albert to be battalion commander, and gave me orders to take charge of the transport which was to go to Dachau from Flossenburg on the 16th of April.

Q Did that happen?

A Yes.

Q What did you do in order to take charge of this transport?

A I had two officers with my transport.

Q Who were they?

A Captain Beblo and First Lieutenant Sommerfeld.

Q Where did these officers come from?

A Captain Beblo was a member of the Wehrmacht and had come with the transport from the east, and towards the end was company commander of the companies which were stationed in Flossenburg. First Lieutenant Sommerfeld had arrived shortly before that in Flossenburg. He had had a detail of Greek Generals. Lt. Sommerfeld was relieved of his duties as detail leader of this detail by Koegel because he allegedly had given too much liberty to these Greek Generals.

Q You said you had two officers at your disposal. How many guards did you have?

A All the soldiers who were stationed in Floss and the school building in Flossenburg were to be transferred

with this transport to Dachau.

Q How many soldiers were there?

A There were 250 non-commissioned officers and men. At least 45 per cent of them were non-commissioned officers.

Q How many guards did you need for the transport?

A For the transport itself about 100 men were needed.

Q How many prisoners were there to be in the column?

A I only found out about that when the prisoners left the camp--approximately 1700 of them.

Q What measures did you take to prepare this transport?

A I designated Captain Beblo as guard officer. I gave him orders to designate, to detail the guards, to thoroughly instruct the guards, and to take the supervision of the guard details of the column.

Q What orders did you give Beblo?

A I gave him the orders to detail the guards, and to instruct the guards thoroughly that no prisoner was to be mistreated, and that the weapons were to be used only in extreme cases of emergency.

Q That was the reason for this latter order?

A The reason was that Lt. Skierka had reported to me shortly before this that a non- commissioned officer allegedly had shot prisoners to death on the transport from the east to Flossenburg. I had this non-commissioned officer brought to me at that time; I was able to determine through an interpreter that he was actually under suspicion of shooting prisoners to death.

Q How did you go about this case?

A I arrested this non-commissioned officer, took him to the arrest building and made a report to Lt. Colonel Koegel.

Q Was any decision made about this case?

A No, that was shortly before my departure from Flossenburg. I don't know just how much was worked on in this case.

Q Did you have to work on any more penal cases in your capacity as battalion commander.

A In January I had to arrest four dog handlers because it had been reported to me that several prisoners had been robbed by dog handlers on the transport on the way from the station in Flossenburg to the camp.

Q Are other cases known?

A Lt. Skierka reported to me that a technical sergeant Olschewski had moved around freely in a women's camp without being accompanied by the female supervisor.

Q Is that the accused Olschewski?

A No, Doctor.

Q Make reference again to the orders which you gave to Peblo about the detailing of the guards.

A I told Captain Peblo about this case, and I told him that I would not tolerate that any such thing should happen with our transport, and that any such violation would have to be reported to me immediately.

Q Did Peblo receive any further orders?

A He received orders to make this order known to the guards.

Q What orders did Sommerfeld receive?

A Sommerfeld had not been detailed to the guards. I gave him orders to proceed to the station in Flossenburg and

take charge of the loading of prisoners.

Q Did he do that?

A Yes, I myself drove between camp and the station of Flossenburg with a small car back and forth and convinced myself that my orders were being carried out.

Q What other measures did you take in preparation of this transport of prisoners.

A I looked for the food for the prisoners. At first I only received rations for one day. After complaining to Captain Kirsamer, he gave me rations for three days for the prisoners.

Q How were the prisoners to be transported to Dachau?

A By train.

Q And over what period of time was this transport to be extended.

A A normal transport from Flossenburg to Dachau takes eight hours.

Q Were other measures necessary for the preparation of this transport?

A No.

Q Can you state anything more before the transport left Flossenburg?

A Yes.

Q What?

A When the prisoners left the protective custody camp, I noticed that some of them looked very ill, and I told the adjutant Baumgartner that I would not take them along.

Q What happened to those sick prisoners?

A Some of the sick prisoners were left back, but some of these sick prisoners who looked ill were taken along because we expected to make the trip in one day.

Q Did you have doctors along?

A Yes.

Q Troop doctors?

A Prisoner doctors, no troop doctors.

Q Anything else before the prisoner transport left?

A No.

MR. MC KAY: Let the record show that Risbusch, Neye, Mussfeldt, Ginschel have returned to the dock.

QUESTIONS BY DR. WACKER:

Q Please describe the departure from the station in Flossenburg April 15th.

A The train, consisting of 40 covered freight cars, left the station in Flossenburg on the morning of the 16th at approximately 8 o'clock.

Q Where did you travel?

A I was in a car in the center of the train.

Q Who was along with you in that car?

A In this car were my wife, my two children, my parents-in-law, the prisoners Dahlke and Oblak, the non-commissioned ration officer responsible for the food--Gluth, a messenger--Pfc. Beetz, three women with 3 or 4 children, three SS women, and Inge Nordmann.

Q Can you name these SS women?

A I only know the name of Mrs. Barth.

Q Was that the Mrs. Barth that testified here as a witness?

A Yes.

Q And is this Miss Nordmann the same that appeared here as a witness?

A Yes.

Q Where did you travel to from Flossenburg?

A After we had travelled for about eight kilometers, a strafing attack came at the very moment when the train entered the station of Floss.

Q Did the train stop in Floss?

A The train stopped in Floss and everybody--prisoners, guards, and soldiers--got out of the train to look for cover.

Q What did you do?

A I left the train as the last man and I could observe that the strafing planes were successful, and I went into the house of the station master.

Q What did you do there?

A I immediately called the camp of Flossenburg and requested medical aid, and furthermore, reported to the commander, Lt. Colonel Koegel, that I could not take the responsibility for the transport any more because I would have to count on the fact that air raids would occur again.

Q What did Koegel say?

A Koegel was not on the phone, but Baumgartner was on the phone because Koegel allegedly had a personal conversation with the head of the Economic and Administrative Main Office, General Pohl.

Q What was the result of this telephone conversation?

A After a short conversation he evidently had had with Lt. Colonel Koegel, he said that General Pohl would see to it personally that this transport would reach Dachau, and that medical aid was on the way from Flossenburg.

Q How many dead and wounded did you have?

A 18 prisoners and 2 SS men had fallen. Outside of that we had about 30 wounded. Then an ambulance arrived from

Flossenburg with a troop doctor, Dr. Adam. Dr. Adam then bandaged the wounded with the medical personnel and prisoner doctor--one I had with me, Dr. Abraham. Part of them were sent to the hospital in Weiden and the other part was transferred back to the camp at Flossenburg. Adjutant Baumgartner then arrived. I asked him to take care of the dead SS men and prisoners.

Q Who was with you in the station building?

A Oblak and Dahlke, 1st Lt. Sommerfeld, my family, and the civilians.

Q What wounds could be determined on the dead and wounded?

A The typical wounds caused by strafing planes.

Q Did you see any shots in the back of the neck?

A No.

Q Did you see any of them--

PROSECUTION: I object to counsel leading the witness.

[illegible]: Objection sustained.

QUESTIONS BY DR. [illegible]:

Q Where were the dead and wounded lying at the air attack?

A Partly outside of the train and some dead were in the cars.

Q Which car did Sommerfeld have?

A He travelled the last part of the train behind my car.

Q Did you observe Sommerfeld during this stay in Flossenburg

A After the attack, Sommerfeld and I left the station building and both he and I inspected the dead and wounded.

Q What happened after the dead and wounded had been taken care of?

A I gave orders to put prisoners' clothes over the train because I was of the opinion that strafing planes would recognize this train now as a prisoner transport.

Q What train was supposed to be marked in this manner?

A The same train with which we had left Flossenburg and into which we got after the air raid was finished.

Q Was that the same train?

A As I said just then, the same train.

Q Did you then leave?

A Yes.

Q Where to?

A We travelled until shortly before Weiden where the train stopped in a ravine. Then another air raid of strafing planes occurred, and I used this opportunity to have food issued. After the air raid danger was over, the train proceeded to Weiden. We reached Weiden when darkness fell so that we had taken almost one full day to get from Flossenburg to Weiden--a distance of about 25 kilometers.

Q Where did you travel to from Weiden?

A In Weiden again we had an air raid, and I asked the stationmaster if he could not pull the train out of the station at least.

Q Did that happen?

A The train was to pull out of Weiden that night. It was pulled out about ten kilometers to a small station by the name of Thierstein.

Q Where did you go to from there?

A We stayed there one full day because there was no engine. The next evening the train was taken to Weiden again, and I took over food which had arrived from Flossenburg and which I had requested by telephone. The train travelled on in a southern direction after another air raid.

Q Where did you go to then?

A The train travelled to Luhewildenau.

Q Did anything unusual happen there?

A We arrived in Luhewildenau at daybreak and the train was again attacked by strafing planes.

PRESIDENT: The court will recess until 1:30 this afternoon.

(Whereupon the court recessed at 1200 hours.)

AFTERNOON SESSION

(Whereupon the court reconvened at 1430 hours)

PRESIDENT: Court will come to order. Let the record show that the time between 1330 and 1430 was used for a conference between the prosecution and defense counsel.

PROSECUTION: Let the record show that all the personnel of the prosecution are present, all the personnel of the defense are present, with the exception of Mr. O'Connor and Lieutenant Colonel Wilson, absent on business of the accused; all the accused are present with the exception of Loach, Oswalt, Riebusch, Hussfeldt, Wurst, Ginschel and Lipinski who are ill. The interests of those named accused who are absent are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

FRANZ BERGER, an accused, resumed the stand in his own behalf and continued to make the following unsworn statement:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Berger, what happened in Luhewildenau?

A The next strafing attack took place when the train came to Luhewildenau. The locomotive was destroyed and the engineer severely wounded, but prisoners and soldiers were not wounded because when the planes first started to dive, the prisoners sought cover. There was an area for storing wood directly adjacent to the railroad station and the whole section was surrounded by forest and the people looked for cover in the forest and the area where the wood was stored.

Q Did you get any reports about Luhewildenau?

A Yes, SS men reported some people escaped. I observed some of them myself.

Q Did anybody shoot at people trying to escape?

A No.

Q Where was the train going to from Luhewildenau?

A We stayed all day in Luhewildenau and in the evening another locomotive brought the train towards Schwarzenfeld. We arrived in Schwarzenfeld at dawn and then the train stopped.

Q What did you do after the train arrived in Schwarzenfeld?

A I left my car and had Captain Beble come to me.

Q What did you say to him?

A I gave Beble the order to take over the train. I wanted to rest up a bit and besides that I gave him an order to detail the guards to let prisoners out of the cars and I told him very emphatically no use would be made of a firing weapon, and I was referring to escapes in case any occurred.

Q What did you do then?

A I went into an inn which was in the neighborhood and about ten or fifteen minutes after I got out of the inn and wanted to go back to the train.

Q Was there an alarm or an air raid actually taking place?

A As I was on my way to the train, the strafing planes came down and attacked the train with their cannon. Since the planes were making repeated attacks on the trains and the railroad station I went back to the railroad platform.

Q And what did you find after the air raid was over?

A The air raid lasted about twenty minutes and after I went out to the waiting room and saw a lot of dead SS men and persons.

Q What do you mean by the railroad platform?

A I mean the railroad station, that is an area of land covered with rails.

Q Where were the prisoners?

A Some of the prisoners were inside and some outside and some in a meadow.

Q How far from the railroad station was the meadow?

A One hundred fifty meters.

Q How many dead and wounded were there?

A Altogether about one hundred twenty; one hundred thirty.

Q What did you do then?

A Captain Bablo was also standing there at the railroad station and I told him I was going to the village to get more help and I told him to gather the dead bodies and see that the medics and doctors tendered the wounded.

Q Did Captain Bablo give you any kind of report?

A No, I decided to divide up the transport.

Q What did you do?

A First of all I called Captain Bablo and First Lieutenant Sommerfeld.

Q Where did this conference take place?

A In the inn near the railroad station.

Q What did you do then?

A I wrote down this order that the transport would be split up, that is, I dictated it to Miss Nordmann.

Q Please tell us the contents of the order which you dictated to Miss Nordmann.

A The transport was to be split up into two groups, one of people capable of making the march and one of people not capable of making the march, that is, the sick and wounded and First Lieutenant Sommerfeld was to take the people capable of making the march and Captain Bablo was to take the people who could not continue the march to Neuburg and return them over to the city council and this transport was to take place by rail. First Lieutenant Sommerfeld split up his detail in various columns and placed competent leaders in charge of each column, and each marching group was not to be burdened by too much marching and any mistreatment of prisoners is forbidden, shooting is also forbidden if people are escaping and

RETURN TO Hadburg and

food was placed at the disposal of the column in a forest near Neumburg. I was going ahead to Neumburg to see that the food was gotten ready and First Lieutenant Sommerfeld kept in contact with me by means of a messenger.

Q Were any precautions taken to reassure yourself that the people incapable of the march were taken care of?

A Yes, that was also written down in this order -- that people who got sick were to be taken to the mayor of the nearest village.

Q Did Miss Nordmann write out this order? [illegible]

A Yes, and three copies made. [illegible]

Q What happened to these three copies? [illegible]

A First of all I read this order out loud to Captain Beble and First Lieutenant Sommerfeld and then gave each one a copy.

Q What did they do then? [illegible]

A Captain Beble went directly to the train and First Lieutenant Sommerfeld called the non-commissioned men and read it out loud in front of the inn and he added a few remarks of his own, and as far as I remember, he mentioned something about hand wagons which were standing there and said they should be divided up and taken along.

Q What did you do? [illegible]

A I went to Neumburg in Wald with a vehicle. [illegible]

Q Did anything unusual take place during your trip to Neumburg?

A Four or five hundred meters after we passed Schwarzenfeld I overtook two columns and we continued on our way. We had a breakdown of our car and we had to cover most of the ground on foot. [illegible]

Q When you arrived at Neumburg on the night of 19 - 20 April 1945, did anything unusual take place on this night or day?

A No. [illegible]

Q What happened the next morning? [illegible]

A The next morning I went to the Mayor's office, introduced myself and reported, and I asked the Mayor's office to give me food for the prisoners to arrive.

Q Did you succeed?

A Yes.

Q What else happened in Neumburg im Wald?

A It was around toward the afternoon when a messenger came to my from First Lieutenant Sommerfeld. It was Technical Sergeant Klinkert and he told me that Sommerfeld's columns had reached the area near Fuhrn and had thrown bivouac, made their quarters there. Since I wanted to spend the whole day there resting, I didn't send the messenger there the same day, and told Lieutenant Sommerfeld to find out what happened to Beblo's columns.

Q Did you ever find out what happened to Beblo's column?

A I didn't find out until the next day.

Q Tell us what happened the next day.

A Nothing unusual took place on the next day.

Q What happened the 21st of April 1945. Please tell us what took place on that day.

A Around noon of the 21st of April 1945, Captain Beblo came and said the city commissioner of Hebburg refused to accept the prisoners, since Neumburg was crowded with refugees like all the other cities and another transport came from Flossenburg to Schwarzenfeld and that he had never gotten any more food from the Mayor's office in Schwarzenfeld and for that reason he said he had to send a column of prisoners under his command back to Neumburg or to the area near Neumburg.

Q Did Captain Beblo have these prisoners walk to Neumburg?

A The Mayor's office in Schwarzenfeld had placed trucks at his disposal.

Q What else happened on that day in Neumburg?

A First Lieutenant Sommerfeld reported to me again and said that his columns were still quartered in the area near Fuhrn and he said that one column had suffered a small bombing attack, but without any losses. I ordered First Lieutenant Sommerfeld to reach the town of Neumburg by evening with his column since warm food had already been placed at the prisoners' disposal at Neumburg. Captain Noble reported to me that he had quartered his prisoners three or four kilometers west of Fuhrn and since I couldn't get any vehicles in Neumburg in spite of all my efforts, I told him to stay where he was until the vehicles could arrive from Roding and I called the attention of both the officers to the ~~PAGE~~ I had made in Schwarzenfeld. I referred them especially to this one point I forgot to mention a little while ago that columns should be surrendered when contact was made with the enemy and that the troops which had been freed by that had the duty to join the nearest fighting unit they could find.

Q What else happened on that day?

A I tried to get a rail connection for the transport of First Lieutenant Sommerfeld's column and got in touch with the people of Bodenwoer near Neumburg; they said all the locomotives had been destroyed and it was impossible to get to me. The Mayor gave me some advice which I followed and went to Roding where the local Kreisleiter was and he had charge of the motor pool and I wanted to get vehicles for the sick people there.

Q I want to touch upon one incident which the witness Dahlke reported, in which you were supposed to get a report about a prisoner shot to death.

A Doctor, I wanted to mention that myself. Just before I left the hospital, I got a telephone call --

Q What hospital?

A The hospital where I was staying. And this telephone call said that I should come into the city and the Mayor himself came to me and said that in the town of Roding a corpse was lying under the arch of the gate.

Q What did you do then?

A I went to the Mayor immediately and saw that a number of columns were in the town and went over to the arch at the gate and I determined that a prisoner was lying there under the arch of the gate with a shot in his head. I called the country police to the scene, they were standing there in the market place, and tried to find out if anyone had observed the shooting. Neither the Mayor nor the country police nor the emergency militia which appeared on the scene a little while later could give me any information on the shooting.

Q Did you find out at all who shot this prisoner to death?

A I stopped a number of people in the columns there and asked them about it, if anyone knew anything about it, but wasn't able to find out, if anyone knewanything about it and this prisoner didn't carry any prisoner's number, just like most of the prisoners.

Q Your attention was just called to the fact that this corpse was lying in Roding, is that right?

A In Neumburg im Wald.

Q Did this incident take place in Roding or Neumburg on Wald?

A In Neumburg im Wald.

Q Please continue.

A After I tried to find out who shot this man to death, I continued my trip to Roding. During the trip I tried to locate an officer or non-commissioned officer who could give me information with regard to this incident, but nobody could give me any information.

Q Did anything unusual take place during the trip to Roding? Did you notice anything unusual on the street?

A I arrived in Roding around 11:00 o'clock at night and on the outskirts of Roding saw two corpses lying on the street, and --

Q Did you examine them?

A I immediately got out of the car and examined the bodies.

Q What did you find out?

A That they were dead.

Q Were you able to determine what the cause of death was?

A I couldn't find out anything which led me to believe that they had died an unnatural death.

Q What happenedin Roding?

A In Roding I immediately went to the Kreisleiter.

Q What did you want from him?

A First of all I reported to him that on the outskirts of his town, two bodies were lying. He told me all day long columns had been coming from Flossenburg from the direction of Cham. I had already found out about that myself after I had passed Neunburg im Wald because I had to get vehicles myself. I found out that Koegel had already presented himself to the Kreisleiter and that he was in the immediate vicinity somewhere and I asked the Kreisleiter of Roding to place vehicles at my disposal which I could take from his motor pool so that I could bring back prisoners from Neunburg im Wald to Roding. The Kreisleiter of Roding said that he had already been himself in Neunburg im Wald and had already taken measures to see that prisoners would be taken in vehicles from his motor pool -- I would not have to bother my head about it any more and he told me that Captain Bebie had behaved himself -- I don't know exactly what expression to use, but believe he meant to say awkwardly. I asked what he meant by that, and he said everybody was very much excited.

Q What else happened in Roding?

A The next morning at 7:30 I went up to the Kreisleiter's office to find out if any other columns had arrived in Roding, that is, columns which First Lieutenant Sommerfeld or Captain Reblo had charge of, and on this occasion Technical Sergeant Graeber reported to me and said they had arrived in a column from Lieutenant Sommerfeld. Shortly after this conference the Kreisleiter reported a telephone conversation, the essence of which was that enemy troops were moving north of Roding in the direction of Chame. The Kreisleiter went out of the building. I followed him. His car was standing outside, all loaded with baggage and he drove away. I went down to the army command post number 13 and this organization was ready to leave itself. In there the colonel told me that Roding would be defended by an officers' company which was to assemble in the market place.

Q Did you meet Koegel in Roding?

A Yes, I went back to the market place but there wasn't any company and there weren't any officers, but I did find Koegel standing there with Baumgartner.

PRESIDENT: Court will take a thirty minute recess.

(Whereupon at 1500 the court recessed until 1530 hours.)

(hereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr. McKay who is absent on business of the accused; all the accused are present with the exception of Lipinski, Losch, Oswalt, Eisbusch and Retzlaff who are ill and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of direct examination, Dr. Wacker.

FRANZ BERGER, an accused, voluntarily took the stand in his own behalf and continued to make the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Berger, we stopped at the point where we were discussing the conversation that took place in Roding between you and Mr. Koegel. Please tell us what you were talking about.

A Koegel and Baumgartner were sitting in their automobile there. I went over to them and briefly made a report about my trip, and he asked me what I wanted there. He said the enemy troops were already in the immediate

vicinity and he told me to report to him in Laiblfing. Miss Nordmann and 1st Lt. Schippel were present at this conversation.

Q Did you go to Laiblfing then or did you take care of any other matters in Roding?

A Koegel and Baumgartner drove away in their automobile and a few minutes later a motorcycle messenger came and said he had an order to bring me to Laiblfing. The American tank units had already entered oding and I went away with this motorcycle messenger to Laiblfing.

Q Did you meet Koegel at Laiblfing?

A Yes.

Q What was the topic of conversation with Koegel at Laiblfing?

A I gave Lt. Col. Koegel an accurate report about my trip in Laiblfing and during this conversation a messenger arrived and told Lt. Col. Koegel that his column had already been cut off by enemy troops.

Q Why did you say "his column also had been cut off?"

A Because Koegel had told me that all of Flossenburg was under way, was being transported, and that a number of columns were already north of Roding.

Q Where were your columns during this period of time?

A They were als north of Roding.

Q What else did you talk about with Koegel?

A Koegel gave me an order to take charge of one of his columns which was in the area near Laiblfing and bring this column to Dachau.

Q Did you do that?

A No. After Koegel and Baumgartner had left in the automobile I took the opportunity and got myself a vehicle and left Laiblfing.

Q To where did you eventually come?

A I drove down the route of march which I had prescribed for 1st Lt. Sommerfeld and I stopped and asked the mayors and Ortsgruppenleiters of the various villages if such a column had passed.

Q Did you find out anything about your column?

A I could only find out that they had not come through, that is, with the exception of the column where S. Sgt. of the SS, Graeber, was. He was the one to whom I gave an order in Roding to join the column of Koegel. Since I couldn't find any more intact fighting groups which I could join, I went to my wife and mother in Rottenag.

Q You say that you had found out from two people who had been with the column of Sommerfeld that one of Sommerfeld's column had reached Roding. Who were these people?

A That was Graeber and Freese.

Q Didn't you say before the intermission that that was Klinkert?

PROSECUTION: I object to that, may it please the court, on the grounds it is repetitious and on the further grounds it is leading and suggestive.

DR. WACKER: But I believe the question is justified in order to clear up this point.

(Berger-direct)

PRESIDENT: Repeat the question.

(Whereupon the reporter read the last question as follows:

Question: "Didn't you say before the intermission that that was Klinkert?")

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q How did you finally get captured?

A I turned myself over to the American authorities.

Q Were you arrested on that occasion?

A Not immediately.

Q When did you get arrested?

A On the 26th of May 1945.

DR. WACKER: No more questions for the moment.

PRESIDENT: Dr. Engelhorn.

DR. ENGELHORN: I want to ask the witness a few questions in regard to Pachen.

PRESIDENT: Proceed.

QUESTIONS BY DR. ENGELHORN:

Q Did you learn to know a certain Mr. Pachen in Flossenburg?

A Yes.

Q Is that the accused, Pachen?

A Yes.

Q Please point him out.

A No. 33.

DR. ENGELHORN: Let the record indicate the witness has identified the accused No. 33 as Pachen.

Q When did you learn to know Pachen?

(Berger-direct)

A Several days before I left Flossenburg.

Q When did you leave Flossenburg?

A On the 16th of April 1945.

Q What job did Pachen have in Flossenburg at that time?

A Pachen had reported to me at that time. I don't know where he came from, I believe he came from Berlin. He arrived in Flossenburg in a completely helpless condition.

Q What do you mean " a helpless condition "? Was he used for any purpose in the camp?

A I don't know. Pachen arrived late that evening and the next morning I made a report about him to Lt. Col. Koegel and since Pachen had told me he had been transferred to Flossenburg as a company leader, I asked Koegel to forbid it that Pachen be taken up into the battalion because the man was sick.

Q Did you know what kind of decision Koegel made about that?

A I only know that Koegel immediately ordered that he take leave, furlough, in order to improve his health.

DR. EHRENFORN: Nothing more.

PRESIDENT: Mr. McKay.

MR. MC KAY: I should like to ask this witness a few questions on behalf of the accused, Ginschel.

PRESIDENT: Proceed.

QUESTIONS BY MR. MC KAY:

Q Major Berger, when you left on the transport from Flossenburg, will you explain what the situation was with regard to camp policemen?

A No camp police were assigned to the transport. When the transport was marching away from the camp six members of the camp police practically smuggled themselves onto the transport. Just before our departure I had seen Ginschel on the SS roll call square. He had come over to me and told me he couldn't handle his rifle.

Q What kind of a rifle did Ginschel have at that time?

A An Italian rifle, the so called "Bailla". That isn't a trademark, that is a German expression for this type of rifle because it is so small.

Q Did you make any kind of an investigation as to why Ginschel could not load this rifle?

A First of all because he only has one arm and besides that I took the rifle in my own hands and determined that he didn't have any Italian ammunition for the gun but he had German ammunition.

Q Did you see Ginschel in Schwarzenfeld?

A Yes.

Q Will you explain the nature of your contact with Ginschel in Schwarzenfeld.

A During the conversation I had with Capt. Bablo, Ginschel came to me and asked for permission to leave the transport. I gave him this permission and I said he could go away anyway because he wasn't even assigned to the few camp police there were with us.

Q When did you next see Ginschel?

A I didn't see him anymore at all.

Q Will you point Ginschel out to the court?

A No. 15.

MR. MCNAY: Let the record show that the witness has identified No. 15 as Ginschel.

Q At the time Ginschel asked for permission to leave in Schwarzenfeld, was he armed?

A I don't know anymore exactly.

Q Will you explain to the court what, if anything, occurred in Schwarzenfeld with regard to the shooting of prisoners other than by air attack?

PROSECUTION: I object to that, may it please the court, on the grounds it is repetitious. The witness has already gone over that matter with respect to Dr. Wacker.

PRESIDENT: Objection sustained.

MR. O'CONNOR: I should like to ask the witness a question.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Berger, you have testified that on one occasion a Lt. Skierka reported to you that a non commissioned officer of the SS had shot a prisoner on the transport, is that correct?

A Yes.

Q You further testified that a Lt. Skierka made a report to you regarding some kind of misconduct on the part of a man named Olschewski, is that correct?

A Yes.

Q Will you look in the dock and see if you see the same person you knew as Skierka and see if you can identify him?

MR. O'CONNOR: Let the record show the witness has correctly identified No. 45 as Skierka.

Q Is that the same Skierka who made those two reports to you?

A Yes.

Q Mr. Berger, please describe to the court as best you can, the nature or character of the relations between Skierka and Koegel while you were in Flossenburg.

A Skierka was my predecessor and Koegel was constantly dissatisfied with Skierka as he told me himself. Skierka couldn't do anything right for Koegel. Koegel complained that Skierka would close one eye to what the soldiers were doing, that is, with regard to intercourse with prisoners. Koegel had put out spies to shadow Skierka and they reported to Koegel about everything that Skierka did. That even occurred when Skierka was there while I was there, and I believe that was connected up with the situation which existed between Skierka and Baumgartner, and they couldn't stand each other. Koegel didn't trust anybody who hadn't been with him for a long time or didn't stick with him.

PRESIDENT: Any further direct examination on the part of the defense? Apparently not. Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Berger, just how many times did you say you acted as the deputy commanding officer of Camp Flossenburg?

A It was two or three times, Mr. Lt. Colonel.

Q The first time was approximately when?

A It was in January just before I went to Berlin.

Q You understand English, don't you?

A Somewhat.

Q When you acted as commanding officer of Camp Flossenburg, you acted as the deputy commander instead of Koegel, did you not?

A Yes, but I didn't make any orders; I didn't make any directives; I didn't give any orders like Koegel.

Q Well, just what did you do?

A I was taking Koegel's place in Flossenburg and I reported to him all the events that took place during his absence.

Q As commanding officer taking Koegel's place you made the decisions that would have been made had Koegel been present, did you not?

A No.

Q You made decisions in his absence, did you not?

A No.

Q You made no decisions at all, is that right?

A No.

Q Did you sign reports?

A It is possible that I signed reports concerning the entire personnel strength of the camp which were being sent to the higher authorities of the SS in Nuernberg.

Q You also signed letters that went to the Economic Office in Oranienburg, did you not?

A No.

Q You are absolutely certain of that, Berger?

A I can't remember signing any document which ever went to Oranienburg.

Q You only acted in January, is that right?

A No.

Q Oh, you acted prior to January 1945?

A No.

Q You are sure about that?

A Koegel was never away then.

Q As a matter of fact, you started acting as deputy commander as early as November 1944, did you not?

A No.

PROSECUTION: I hand the reporter a document and ask her to mark it, please, Prosecution Exhibit No. 86, for identification.

(The document referred to was marked Prosecution Exhibits No. 86 for identification.)

LT. COL. SKIEVIG: What is the description of that?

PROSECUTION: Ration allo ance at the camp.

QUESTIONS BY PROSECUTION:

Q Berger, I hand you a document which has been marked Prosecution Exhibit No. 86 for identification and ask you to state whether or not that is your signature?

A Yes.

Q I will ask you to state whether or not you were acting for the lager commandant at that time which was the 30th of November 1944?

A It is printed here, "Lt. Col. of the SS". At that time Koegel was still in the camp, he was not away, and I signed this one evening very quickly and such affairs often took place, Mr. Lt. Colonel.

Q What does "I. V." stand for?

A "I. V.", as representative.

Q You crossed out the "Obersturmbannfuehrer" did you not?

A Yes.

Q So that you signed that document as the camp commandant of concentration camp Flossenburg, I. V., Berger, SS Sturmbannfuehrer, on the 30th of November 1944?

A Yes.

Q At that time were you not discharging Koegel's duties when Koegel was present in the camp?

A Yes.

Q In other words, you acted as the camp commander when Koegel was in the camp, also.

A No.

Q Well, you signed it that way, did you not?

A Yes.

All right. This little document we have been talking about, Prosecution Exhibit 86 for identification, is what?

A That is a list of people who have to get their own food in the Food Department , Section 68.

Q You also acted as deputy commander in the month of December 1944, did you not?

A Koegel was still there on that occasion, also.

Q While Koegel was still there you were performing part of Koegel's functions as commanding officer of Camp Flossenburg, is that not true?

A In personnel matters, certainly, but I already mentioned that I was the chief of the personnel section.

Q You talk about the personnel section. In other words, you did that with reference to the procurement of rations, is that NOT correct?

A I didn't have anything to do with food, but as far as the men, the soldiers were concerned, certainly. In the same manner this first document concerned only the troops.

Q That was a matter which was normally handled by the camp commander, was it not?

A No.

Q In other words, that was handled by you as the commanding officer of the guard battalion, is that correct?

A As the chief of the personnel section.

Q As chief of the personnel section you were responsible for what duties?

A Everything that has any connection with personnel matters.

Q That is personnel only of the troops and not of the prisoners?

A That's right.

Q Why did you sign as camp commander "in substitution"?

A Probably I signed that because Koegel wasn't there at the moment.

Q Well, when Koegel was not there at the moment you were the deputy camp commander, were you not?

A No.

Q If that was a matter that came normally within your functions as head of the personnel section, why did you sign it "in substitution"?

A Because I had a right to do that as leader of the personnel section.

Q As leader of the personnel section you signed all documents, "in substitution"?

A Yes.

(Berger-cross)

Q Did you ever sign any documents that were not "in substitution?"

A Yes, as battalion commander, or as leader of the personnel section or as chief of the army motor pool.

Q In any other position that you have occupied in the SS did you ever sign the reports or documents "in substitution" when you were acting for the commanding officer?

A Not if I had that position myself.

Q You had that position yourself as the head of the personnel section in Camp Flossenburg, did you not?

A Yes.

Q So that it was not necessary for you to sign them as "I. V." which is "in substitution", when you acted in your roll as the head of the personnel section of Flossenburg, is that not correct?

A The personnel section was not an independent section, it belonged to the commandant's office.

Q All those sections belonged to the commandant's office, did they not, Berger?

A Not the guard battalion.

Q Then the guard battalion was the only one that did not?

A As far as I know, yes, and the army motor pool.

Q You were not in the guard battalion the 30th of November, were you?

A No.

PROSECUTION: (to reporter) I hand you a document and ask you to mark it, please, Prosecution Exhibit 87 for identification.

(The document referred to was marked Prosecution Exhibit 87 for identification.)

Q As the commanding officer of the personnel section you had absolutely nothing to do with the prisoners, is that not right?

A Not as leader of the personnel section.

(Berger-cross)

Q As leader of what did you have something to do with the prisoners?

A When I represented Lt. Col. Koegel.

Q Let us see, did you represent Lt. Col. Koegel in December 1944?

A I can't remember that he was away for any length of time in December.

Q Do you know whether or not you acted as deputy during that time? Tell the court whether you did or whether you did not.

A It is possible that I did sign a document as "his representative".

Q More than one?

A It is possible it could have been a number, several.

Q In other words, it is quite possible that you acted as his deputy for quite some period of time in December 1944, is that not so, Berger?

A No.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

QUESTIONS BY PROSECUTION:

Q Mr. Berger, I hand you a document marked Prosecution Exhibit No. 87 for identification and ask you to state whether or not that is your signature?

A Yes.

Q What is that document?

A That is a request for skilled workers and helpers. It's from the administration, from Capt. of the SS, Kirsamer, signed "Berger, Major of the SS, representing the Commandant of the Camp."

Q What is the date of that?

DR. WACKER: I have to make an objection to translation here, to this "I. V." It means more than that in German.

PRESIDENT: (to interpreter) Did you translate "I. V." properly?

THE INTERPRETER: Yes, sir, as far as I can. Literally it means "in representation of."

PRESIDENT: Proceed. Dr. Wacker, you can bring that point out during the course of redirect, if necessary.

QUESTIONS BY PROSECUTION:

Q That was sent to the commandant's office, was it not?

A Yes.

Q That concerns prisoners, does it not?

A Yes.

Q That date on that is what?

A First of December 1944.

Q So that you could not sign this document as the head of the personnel section, is that correct?

A That is right.

PROSECUTION: May it please the court, in order to expedite this, I am going to ask this whole batch be marked as Prosecution Exhibit 88 for identification. It consists of 32 sheets of the same nature as the document which has been marked Prosecution Exhibit 87 for identification.

PRESIDENT: The court understands this Prosecution Exhibit 88 refers to strength reports, is that the idea?

PROSECUTION: It refers to the same thing the witness stated it referred to, request certificates.

(Whereupon the documents referred to were marked Prosecution Exhibit 88 for identification.)

MR. HALL: May it please the court, on behalf of Dr. Wacker, may he have five minutes to check this

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place.)

PRESIDENT: Court will come to order.

(Berger-cross)

QUESTIONS BY PROSECUTION:

Q Mr. Berger, I hand you a group of documents, 32 in number, which have been marked Prosecution Exhibit 88 for identification, and ask you to examine the signatures on those documents and state whether or not they are signed by you?

A Yes, they are my signatures.

Q How does that signature appear, in what form?

A Signed "representing the camp commander, Major of the SS, Berger."

DR. WACKER: I must make the same objection which I will explain later.

PRESIDENT: Very well.

QUESTIONS BY PROSECUTION:

Q What is the nature of those documents which have been marked Prosecution Exhibits 88 for identification?

PRESIDENT: Just a minute. Doctor, are you referring to the objection of translation, is that right?

DR. WACKER: Yes.

PRESIDENT: The court will give you an opportunity to bring that out later on.

ACCUSED BERGER: A request certificate or request certificates for skilled workers.

QUESTIONS BY PROSECUTION:

Q Does that also set forth the pay that was received by the prisoners?

A Yes.

Q Or rather, is that the pay the prisoners actually earned but not necessarily received?

A I don't know that.

Q You did not have anything to do with that in your office as head of the personnel section, is that right?

A No.

Q Can you tell the court, Berger, any other times during the month of December that you acted for the camp commandant?

A I didn't act as camp commandant but I made these signatures on these documents after Koegel had given me an order to do that and given me the authorization to do that.

Q Did you do the same thing in March and in April?

DR. WACKER: I beg that that also be added, what Berger said at the end.

THE INTERPRETER: He said, "I. V.", representing him.

DR. WACKER: I must make the same objection her to the translation which I also made before.

PROSECUTION: May it please the court, I have no objection to a standing objection on the part of Dr. Wacker to the interpretation as made of "I. V."

QUESTIONS BY PROSECUTION:

Q The deputy commander acts for and in behalf of the commander, does he not, Berger?

A Yes.

Q And as his representative?

A Yes, if he is asked to do that definitely.

Q The deputy commander signs "I. V." does he not?

A Yes.

Q Can you tell the court now whether or not you signed, "I. V." for the lager commandant on any other instances in December 1944?

A Certainly.

Q How many more times?

A All the personnel affairs.

Q Did you do so with respect to matters concerning prisoners?

A Yes, that is proven by this request certificate.

(Berger-cross)

Q On how many other occasions did you do it during the month of December 1944, where it pertained to prisoners?

A I can't tell you.

Q Was it many or few, Berger?

A They were exceptional cases.

Q Were these cases that have been called to your attention exceptional cases?

A Yes, otherwise I never signed any such request certificates.

Q How frequently did these exceptional cases arise during the month of December 1944 that pertained to prisoners?

A I don't know.

Q What is your best judgment?

A I can't tell you.

Q Many or few?

A Exceptional cases are always few.

Q Would you say as many as ten times?

DR. WACKER: I have to object to this question. In this American procedure here we constantly refer to the best available proof. The Prosecutor has the best available proof in his hand and he, nevertheless, asks questions without referring to this best available proof, and I do not believe that is proper.

PROSECUTION: I should like to reply to that, may it please the court. I have the right to ask him first whether or not he did it. If he didn't do it then we refer to the documents and these documents may or may not be all that he did during that particular time.

PRESIDENT: Objection overruled.

QUESTIONS BY PROSECUTION:

Q As many as ten times, Berger?

A No matter how hard I try, if I would try to tell you, I would have to

PROSECUTION: (to reporter) Mark this, please. Prosecution Exhibit No. 89 for identification.

(The document referred to was marked Prosecution Exhibit No. 89 for identification.)

LT. COL. SKIELVIG: What is that description?

PROSECUTION: A document regarding the transfer of prisoners.

QUESTIONS BY PROSECUTION:

Q Berger, I hand you a document which has been marked Prosecution Exhibit No. 89 for identification and ask you to examine the signature or initials that appear there, and ask you to state whether or not you know whose they are?

A That probably is mine.

Q Berger, on what date was that initialed?

A The 4th of January.

Q 1945?

A Yes.

Q That was a letter sent from Flossenburg to Oranienburg, was it not?

A Yes.

Q That concerns the transfer of prisoners who had been committed by the police, from one concentration camp to another?

A Yes.

PRESIDENT: Court will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 12 December 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort .....

Date
Datum .....

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at .....
in (Address of Court)
(Anschrift des Gerichtes)

on .....194 .....
am

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

Copy of above served on accused ..... 194.....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG
Case No. .....

Pages 7987 - 8072 Incl.
Prosecutor .....

~~*Summary~~
~~*Intermediate Military Court~~
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 12 December 1946
0900 - 1650 Hours

Reporter .....

~~Members of Court~~

WITNESSES:

FRANZ BERGER
ERNST WEBER
JOHANN SIGL
HANS MONSKA

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BURGER, et al

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

12 December 1946 0900 - 1650 Hours Pages 7987 - 8072 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
FRANZ BERGER		7987 8002	8016 8021 8031	8026	
ERNST WEBER	8034 8047	8049			
JOHANN SIGL	8053	8058			8060
HANS MONSKA			8060		

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
1-90	Document (an order signed by Berger)	7991	
1-85	Berger's personal file		7997

CAMP DACHAU, GERMANY

12 December 1946

MORNING SESSION

(Thereupon the court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Oswalt, Losch, Neye, Lipinski, Jinschel, Wussfeldt and Fisbusch who are sick and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross examination, Colonel Denson.

FRANZ BERGER, an accused, voluntarily took the stand in his own behalf and continued to make the following unsworn statement through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION:

Q Yesterday, Berger, we were discussing the instances in which you acted as deputy camp commander. Do you recall that?

A Yes.

Q From the time that you reported to Flossenburg concentration camp for duty in November, 1944, up until the evacuation of the camp, were you the next senior line officer present to Koegel?

A Yes, with a few who were exceptions.

Q Who were the exceptions?

A In March and April, there still was a major of the SS in Flossenburg and he only took care of prisoner matters.

Q Was he senior to you?

A Yes, he was my senior.

Q What was his name?

A Stavitski.

Q How do you spell it?

A S-t-a-v-i-t-s-k-i.

Q Was he the Gestapo man?

A I don't know. I don't know whether he came from the Gestapo or the security service.

Q He was not an officer of the line, was he?

A If he came from the security service of the Gestapo, certainly not. The same as Voegel, Voegel was not a line officer either.

Q Voegel had come up through the deathhead units, had he not?

A I don't know. I only know as he told me--that he had been in Dachau since 1933, then he had a womens' camp and then I believe he was in Buhlin and then he was in Flossenburg.

Q By the way, at what hour approximately was it that Sommerfeld's column arrived in Feurburg?

A Sommerfeld's column arrived towards 8 o'clock in the evening but in the course of the noon hour, Sommerfeld reported to me personally.

Q But the body of the column arrived there at approximately 8 o'clock in the evening?

A Yes.

(Sarzer-Cross)

Q Now there was a notification that was sent to Oranienburg, was there not, on approximately the first part or the middle part of January, which officially designated you as deputy camp commander and also as the commanding officer of the guard battalion, is that not correct?

A That is right, but the only time that applied was when Lt. Colonel Koegel was absent and it is connected up with the fact that Lt. Colonel Koegel and his adjutant, Baumgartner, were planning a rather long business trip at that time.

Q But they never took that trip, did they?

A No.

Q You were still the deputy commander by virtue of that order, were you not?

A During his absence, yes.

Q That order had the approval of Glucks who was the inspector of the concentration camps working out of Oranienburg, is that correct?

A Yes.

Q Do you recall acting as deputy camp commander at any other time during the month of January except on the 4th day of January, 1945?

A I believe on the 14th of January.

Q What did you do on the 14th of January as deputy camp commander of Flossenburg?

A I can't remember anything in particular.

Q You just performed then the functions that the camp commander would have normally performed had he been present, is that correct?

(Berger-Cross)

A No, the important matters and signatures I would have to hold until he came back in the evening.

Q Well, this matter that you sent to Oranienburg on the 4th day of January, 1945, was quite an important matter, concerning the transfer of prisoners from one concentration camp to another, was it not?

A On this day, Lt. Colonel Koegel was definitely in the concentration camp. You can tell by looking at the document that it was signed SS Lt. Colonel and that in the evening I had a pack of papers to work on and he gave me the power of attorney to sign that. I did not dictate that document and I am not responsible for its content.

Q You more or less assisted Koegel in performing his camp duties even while Koegel was there then, is that correct?

A In this matter, I carried out the order which Lt. Colonel Koegel gave me. Whether you say I was helping him in that respect I don't know.

Q It did not necessarily take a direct order from Koegel to require you to write this letter and dispatch it to Oranienburg, did it?

A I couldn't do that. I couldn't dictate such a letter.

Q Do you mean to tell this court that every time you put your pen to a paper, you had to have a direct order from Koegel to do it?

A No.

Q You also acted as deputy camp commander during the month of March, 1945, did you not?

A I believe so. I already emphasized that.

Q What did you do then?

A I must say again, I don't remember anything in particular.

Q In other words, it was so much that you just can't remember anything in particular, is that correct?

A As representative of Lt. Colonel Hoegel, definitely not. But I had plenty of other work of my own to do.

Q If there were exceptional cases, you certainly could remember them, could you not, Berger?

A Yes.

Q You don't remember it, do you?

A No.

PROSECUTION: Reporter, I hand you a document you may mark for identification.

(The document referred to was marked Prosecution Exhibit P-90 for identification.)

QUESTIONS BY PROSECUTION:

Q Berger, I hand you a document which has been marked Prosecution Exhibit P-90 for identification and ask you to state whether or not that is your signature.

A Yes.

Q What is that document?

A That is an order for two soldiers to go some place and to return.

Q How is it signed?

A It is signed The Camp Commander, IV, SS Major Berger.

Q What does that "IV" stand for?

A I already said yesterday that all these personnel matters were signed IV, everything that I signed had that.

(Berger-Cross)

Q What was the date on that?

A 17th of March, 1945.

Q I thought you were sick on the 17th of March, 1945.

A I said that during the first days of March, 1945, I had to undergo a jaw operation and that I was sick for several weeks.

Q But you were back on the 17th?

A I was back definitely several days before that because I often came up to the camp to get treatment.

Q Then I understand you to say that on or about the 1st of March, 1945, you were sick for three weeks with a jaw operation.

A Yes.

Q You were in error about that, I assume, is that correct?

A No, I did not make an error.

Q Three weeks from the 1st of March is about the 21st of March, is it not?

A Certainly, but I didn't stay home all that time.

Q I see, in other words, you performed your duties as deputy camp commander even though you were partially ill, is that correct?

A No, that is not right.

Q As commanding officer of the guard battalion, it was your duty to instruct the guards stationed at Flossenburg with respect to the security of the prisoners, is that correct?

A Yes.

Q It was your duty to instruct them as to what precautions they should take with respect to keeping the prisoners from escaping, is that correct?

(Berger-Cross)

A No, that wasn't up to me, that was already included in the guard orders.

Q Well, you examined the guard orders to ascertain whether or not they were sufficient for the purposes they were designed for, did you not?

A Yes.

Q And in the event they were not sufficient, you made what changes would be necessary in order to secure the safe custody of the prisoners, did you not?

A No, they were not insufficient.

Q You saw that they were sufficient, is that correct?

A They were the general rules for guards which had validity in all the countries.

Q In all countries--do you know what the rules of orders pertaining to guard duty are in the rest of the countries, Berger?

A In civilized countries, yes.

Q Do you know what they are in the United States?

A I count the United States as a civilized country.

Q How many company leaders did you have in your guard battalion in January, 1945, in Flossenburg, Berger?

A There were three company leaders in Flossenburg and only one had the rank of an officer.

Q Who was that?

A Lieutenant Skierka.

Q Did the personnel in your company leaders change at any time between January and just immediately prior to the evacuation in April, 1945?

A There were a lot of changes there, because in April a lot of officers came to Flossenburg.

Q On the 1st of April, who were your company leaders?

A In the guard battalion of Flossenburg, in the first company it was Lt. Skierka, in the second company, master sergeant or warrant officer of the SS, Gorgel, and in the third company, First Sergeant Becker. Captain Beblo had the company which was quartered in Flossenburg. I don't know when the time was, but one top sergeant was relieved of his duties and replaced by a 1st lieutenant. His name was Halbleib. One or two companies which came from Gross Rosen were dissolved by Lieutenant Sommerfeld.

Q Was Beblo there at the same time that Lieutenant Albert was there?

A He was still there. Captain Beblo went away with me on the 18th of April and Albert came on the 11th or 12th, I don't know for sure.

Q Was Albert designated as commanding officer of the guard battalion there ahead of Captain Beblo?

A No, Beblo had been in Flossenburg already for some time.

Q Then Lieutenant Albert was the next senior officer after you and Captain Beblo, is that correct?

A 1st Lieutenant Sommerfeld and 1st Lieutenant Halbleib.

Q Did I understand you yesterday to say that Lt. Albert was designated as commanding officer of the guard battalion?

A Yes.

Q Was that while you were still there at Flossenburg?

A On the 15th of April.

Q Were you still there at Flossenburg at that time?

A No, not I.

(Berger-Cross)

Q In other words, you had gone away from Flossenburg when Albert was designated as commanding officer of the guard battalion, is that correct?

A I was there one more day.

Q But your departure was imminent at the time you were there when he was made commanding officer of the guard battalion?

A Yes.

Q You were responsible for the security of the camp of Flossenburg, were you not?

A Yes, I was responsible for the security as commander of the guard battalion.

Q I hand you a file marked Prosecution Exhibit P-85 for identification, Mr. Berger, and ask you to state whether or not you know what that is.

A Yes, they are the personal papers of Major of the SS, Franz Berger.

Q Yesterday, we talked about you having been charged with insulting Himmler.

A Yes.

Q There were actually five things that you were picked up for, is that not true?

A I was never charged with anything.

Q You were arrested for all five of them, were you not?

A The order which put me in protective custody said I was put there because of insulting the National Leader of the SS, Himmler.

Q But you were arrested for the drunken party that you permitted to take place rather than insulting Himmler, is that not right?

A I didn't allow any drunken party to take place, and there is nothing here about it.

Q What does this last paragraph over here say? Have you ever seen that before?

A In Flossenburg?

Q Anywhere?

A Certainly, in Flossenburg. It says "The National Leader of the SS, Himmler, complains about SS Major Berger insulting him on the occasion of a party with comrades when the picture of the National Leader of the SS was torn up."

DEFENSE COUNSEL: The defense requests permission to withdraw Skierka for consultation.

PRESIDENT: Request granted.

Mr. Prosecutor, the court is under the impression that Prosecution Exhibit No. 85 has not yet been received in evidence.

PROSECUTION: This is the first time that it has been properly identified, may it please the court.

PRESIDENT: The court feels that if you are going to have the witness read from it any further, it should be in evidence.

PROSECUTION: If the defense wants it introduced in evidence, I will do so, otherwise it doesn't matter.

DR. AUGINI: I will have to refer back to this.

PROSECUTION: May it please the court, I offer in evidence the file marked Prosecution Exhibit No. 85 which has been identified as the personal file of papers of Major of the SS Franz Berger.

(Berger-Cross)

PRESIDENT: Subject to objection by any member of the court, prosecution exhibit [illegible] will be received in evidence and given such weight as the court sees fit.

(The document heretofore marked Prosecution Exhibit [illegible] for identification was received in evidence as Prosecution Exhibit [illegible], is attached hereto, and made a part of the record.)

[illegible] QUESTION:

Read this paragraph here, Berger (indicating).

A "The National Leader of the [illegible] objects to the behavior of [illegible] Major Berger on the comradely evening during which the picture of the National Leader of the [illegible] was demolished. At any rate, Berger had to end this evening immediately when he noticed that the members of the party were drunken and standing around this hot wine. And Major Berger had to break up this lack of behavior as soon as 2nd Lieutenant Schwenk threw the first glass. At any rate, the opinion of the National Leader of the [illegible] is that Major Berger did not show enough supervision on that occasion and he considers that the deed has been atoned for by the protective custody arrest and the proceedings are to be dropped and, according to that, the proceedings will be dropped." This is signed Fancke, Chief Judge, and signed the leader of the investigation, [illegible], Captain of the [illegible] and Reserve Judge.

PROSECUTION: I call the interpreter's attention to the translation there with respect to whether he should have said "should have terminated the party".

INTERPRETER: "Should have terminated the party" is correct, sir.

QUESTIONS BY PROSECUTION:

Q Berger, is it not a fact that there was a set of regulations which governed the operation of not only Flossenburg but all concentration camps that were issued by the Economic and Administration office at Oranienburg?

A Certainly.

Q Is it not also a fact that in these regulations that were issued for the government of all concentration camps, there was a definite devolution of authority to the next senior officer present?

A I happen to know that in these regulations, the leader of the protective custody is designated as the deputy camp commandant with the exception of Flossenburg.

Q You mean in the regulations, Berger, it says that in all concentration camps the deputy commander in the absence of the commander shall be the leader of the protective custody compound except in Flossenburg?

A That isn't what I am trying to say, by no means.

Q In other words, it designated the next senior officer present in the camp for duty as the deputy commander in the absence of the camp commandant, is that not the general regulation that applies?

A I don't know about that. That is not known to me.

Q Have you ever seen these regulations, Berger?

A No.

Q When you locked up Pinter and Pens, they were locked up because they had taken property which would have ultimately belonged to the German Reich in the event of death of the Jews, is that not so?

(Berger-Cross)

MR. HALL: I object to that as containing a conclusion of fact which is not in evidence.

PROSECUTION: Reporter, will you read my question?

(Whereupon the reporter repeated the question.)

PROSECUTION: I will amend that question by striking "Jews" and substituting therefor "Italians".

MR. HALL: If it please the court, I still object to the question even with that. I believe the testimony is that they were charged with taking the property.

PRESIDENT: Objection is sustained.

QUESTIONS BY PROSECUTION:

Q You locked up Pinter and Fenz, did you not, on the charge that they had taken property from these Italians which ultimately would have belonged to the German Reich in the event of the death of these Italians, is that right?

MR. HALL: I object to that question. I think that the question contains two or three questions all at once, and I believe it should be broken down and divided into two or three questions.

PRESIDENT: The court does feel, Mr. Prosecutor, that the question is rather complicated. The objection is sustained.

PROSECUTION: Reporter, please read that question.

(Whereupon the reporter repeated the question.)

QUESTIONS BY PROSECUTION:

Q You locked up Pinter and Fenz, did you not?

A Yes.

Q You locked them up because they had allegedly taken property from these Italians, did you not?

(Berger-Cross)

A Yes.

Q This property, the gold watches, would have belonged to the German Reich in the event of the death of these Italians would it not?

MR. MC KAY: That question is objected to because it calls for a conclusion of the witness.

PRESIDENT: Objection overruled.

WITNESS BERGER: I don't know whether they would have become the property of the German Reich if these prisoners had died.

QUESTIONS BY PROSECUTION:

Q During the time that you were there dealing with the personnel section, do you tell this court that you never had an occasion to take notice that the property which belonged to the prisoners who died in the concentration camp reverted to the German Reich?

MR. MC KAY: Objected to as going beyond the scope of direction examination.

PRESIDENT: Objection overruled.

WITNESS BERGER: I don't know that for sure, but I certainly assume it.

QUESTIONS BY PROSECUTION:

Q Did you ever punish any of your guards for mistreating prisoners while you were there?

A During the weeks I was there, I only took care of three disciplinary matters.

Q You knew that prisoners were being mistreated while you were there, did you not?

(Berger-Cross)

A I never heard or saw that any members of my guard battalion mistreated prisoners.

Q Those three cases in which you disciplined prisoners involved property, did it not?

MR. MCKAY: Objected to in form because of the word "prisoners". It goes beyond the scope of direct examination.

PROSECUTION: I will amend that question.

QUESTIONS BY PROSECUTION:

Q In those three cases which you disciplined guards, it was for matters which involved property, was it not?

MR. HALL: I object to the question in that it implies that the guards were disciplined for having committed a particular act and I don't believe there is any testimony before this court to that effect. They might have been held in restraint pending action--

PROSECUTION: --He himself said he disciplined the guards in three cases.

PRESIDENT: Objection overruled.

WITNESS BERGER: No.

PRESIDENT: Court will take a half-hour recess.

(Thereupon the court recessed at 1000 hours.)

(Thereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Denson and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Lipinski, Lesch, Oswalt, Eisbusch, Weys, Mussfeldt, and Ginschel, who are ill and whose interests are being taken care of by counsel, and Skierka, who is conferring with counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross examination.

FRANZ BERGER, an accused, voluntarily took the stand in his own behalf and continued to make the following unsworn statement through an interpreter.

CROSS EXAMINATION

QUESTIONS BY MR. BURKOWITZ:

Q Now, Mr. Berger, you testified that two officers with you on the transport were Sebio and Sommerfeld --do you know whether or not Sebio took a transport of prisoners?

A Yes.

Q Do you know where it came from?

A From Cross Reserve.

Q You also said you instructed your guards to use weapons only in case of emergency -- do you know what that emergency was?

A I did not state I instructed my guards, but I stated I instructed Captain Sebio to transmit these orders to the troops in case of extreme emergency, when I am being attacked myself.

Q Do you mean the guards were instructed to use the weapons only when you were being attacked?

A I didn't say that.

Q Didn't I understand you to say you gave instructions to use the weapons in case you were attacked?

A I said in cases of extreme emergency.

Q Didn't I understand you to say you meant by emergency when you were attacked yourself?

A No, I can take care of myself, I don't need a guard for that.

Q What do you mean by extreme emergency?

A Self defense.

Q What do you mean by self defense?

A In case a guard should be attacked by prisoners.

Q Were the prisoners armed?

A No.

Q What kind of an attack would you consider an emergency?

A An attack on my life.

Q What definition did you give Beble?

A I told Beble that weapons should be used only in cases of extreme emergency when guards should be attacked.

Q Is that a case of extre e emergency?

MR. MC KAY: I object to that question.

PRESIDENT: Objection sustained.

Q Now you say you detailed Schwerfeld to load the prisoners into the cars, did he also have charge of unloading the prisoners?

A There was no necessity for such an order.

Q Who was to have charge of unloading the prisoners?

The prisoners were only unloaded in Thierstein and Schwarzenfeld. In the other cases, whenever the prisoners got out of their cars, no orders were given them to do so.

Q Thierstein is a station near Weiden?

A Yes.

(Berger - Cross)

Q Who had charge of unloading the prisoners at Thierstein and Schwarzenfeld?

A Captain Noble.

Q And at the time of the unloading, were the limits set how far the prisoners could go?

A Yes.

Q And were the guards armed?

A Yes.

Q What instructions were given to the guards?

A They did not receive specific orders in this case, they were covered by guard rules.

Q What were the guard rules in case a prisoner should attempt to approach the line of guard?

A To hinder him.

Q In what way

A By calling to him.

Q What was done if he continued to walk?

A The guard would try to hold this man

Q How?

A It depends on the individual case.

PRESIDENT: I should like the prosecution to be more precise. Are you referring to Thierstein or Schwarzenfeld?

PROSECUTION: General conditions.

Q You testified the guards were placed at Thierstein and Schwarzenfeld. What were your instructions when a prisoner attempted to pass the guard line?

A The guard has to call the prisoner three times and if he can't stop him in any other way, then he can make use of his weapon.

Q What were the instructions to the guards on the occasions when the prisoners got out of line during the foot marches?

A The foot march was governed by the written orders which I issued at Schwarzenfeld, that no use would be made of the weapons, even in cases of escapes.

Q At Thierstein and Schwarzenfeld what use was made of the guards? How far away were the guards?

At Thierstein it was approximately two hundred meters and at Schwarzenfeld later on Noble sent them to the meadow.

Q What provisions were made for the prisoners to have water at the train stops?

A The nearest fountain, the nearest water fountain, drinking fountain was in the inn in which I was and groups of prisoners always walked over.

Q Did that take place before the attack?

A After the attack, I observed it steadily.

Q Did you observe it before the attack?

A It was hardly ~~hardly~~ ten minutes after they had been there before the air raid took place.

Q What provisions were made for watering the prisoners at Thierstein?

A From the station.

Q Who took care of that?

A Captain Noble.

PRESIDENT: Just a minute, Mr. Prosecutor. The court feels you are going too much into detail.

Q Now, was the car Schwarzenfeld traveled in to Schwarzenfeld in the middle of the train, or at the end of the train?

A Towards the end of the train. I was in the center car.

Q Where did you say it was?

MR WOLFF: Objected to as repetitious.

A Towards the end of the train.

PRESIDENT: Do you want to withdraw your objection?

MR. MC FAT: I will withdraw it.

Q Now, the first attack took place at Flossenbürg. You say you went to the station and Sommerfeld went to the station. Who got there first, you or Sommerfeld?

A I don't know that any more.

Q Did you examine the wounded and dead who were removed to Flossenbürg after the attack?

A So far as it was possible to make after a raid, yes.

Q Didn't you know that at least one of these prisoners was killed by a shot from a guard?

A No.

Q Who was Dr. Abraham?

A Dr. Abraham was a prisoner doctor who came from Gross Rosen, as far as I can remember from the conversation I had with him.

Q After the attack in Floss, how long were cars in the station?

A Two hours, I believe.

Q Where were you during those two hours?

A In the station of Floss.

Q Were you inside or outside?

A Inside and outside.

Q How many shots did you hear during those two hours?

The strafing planes returned often. They did not only come once.

Q How many rifle shots did you hear during those two hours?

A None.

Q How many pistol shots?

A None.

Q You heard no shooting in the station at Floss after the ambulance left the scene of attack?

A That is correct.

Q Did you ascertain at the time of the attack at Schwarzenfeld the causes of death of people who were wounded and killed?

A After the raid in Schwarzenfeld, it was my foremost duty to get some aid so I went to the Burgmeister in Schwarzenfeld to get some help, so didn't examine the people at Schwarzenfeld.

Q Did you know after the attack in Flose that the SS returning to shelter in cars found some of the food was taken by the prisoners?

A The SS did not have any food along because all the men had ration cards to look out for themselves, it was only food for prisoners.

Q Was this food under the supervision of the SS?

A Yes.

Q And did you know some of the prisoners got some of that food while the SS left the cars?

A No.

Q Did you get a report of that?

A No.

Q Did you know the prisoners were ordered not to leave the cars in case of subsequent air attack?

A That order was never given.

Q How do you know?

A I would know about it.

Q Did you make any inquiries?

A Why should I inquire about it?

Q Did you make any inquiries how the guards were handling the prisoners during those attacks?

A I was there myself during the air raids.

Q Now this car was composed -- this train consisted of forty cars. Were you able to see what was transpiring in all the cars?

A No.

Q Did you make inquiries as to what was transpiring in the other cars where you couldn't see?

A I had the two officers with me — one in the first half of the train and the other in the second half of the train. They certainly would have reported something to me.

Q Did you make any inquiries of your officers?

A But certainly. They were with me after the attack.

Q What did they tell you?

A They reported to me that nothing unusual had happened.

Q The division of duties was that Somerfeld would have the prisoners and Sablo would have the guards, but the division also was that Somerfeld was to have the front part of the train and Sablo the rear of the train, isn't that correct?

A Sablo was guard officer and because of that was in charge of all the guards, but I asked the two gentlemen to help me look over the train and I asked one of them to stay in the first half of the train and one in the rear end of the train, so that not both would ride in the same car.

Q So that you divided the authority between the two to the front and rear ends of the train, isn't that correct?

MR. VO KAY: The question is objected to as it calls for an answer that would be repetitious.

PRESIDENT: Objection sustained.

Q Now, after the attack at Schwarzenfeld you gave instructions that on the approach of the enemy these guards were to be returned to a combat unit, isn't that correct?

DR. TACKER: I believe there was a mistake made.

PRESIDENT: Would you please repeat the question.

(Thereupon the last question was read by the reporter.)

Q When did you speak to the Mayor?

A The next morning.

Q What was the Mayor's name?

A The Burgomeister himself was not there, his deputy was there.

Q Do you know his name.

A Wendel, I believe.

Q What was the subject of your conversation with the Mayor on that occasion?

A I told Wendel that a prisoner transport was on the way from Schwarzenfeld to Neunburg ob Wald and they would arrive the next morning, and asked him if they would be so kind as to provide food. At the same time I inquired about the possibilities of a train transport, and tried from his office to call the station at Bodenmoehr.

PRESIDENT: Mr. Prosecutor, the court feels a lot of this evidence coming before the court at this time is purely repetitious.

Q When did you next speak to the Mayor of Neunburg?

A The next day, about 11:00.

MR. MCNAY: Let the record show that the accused Wusterfeldt, Eisbusch, Weye and Ginschel returned to the dock.

(Berger - Cross)

PROSECUTION: That should be "turned into a combat unite"

A No.

Q What were your instructions in that respect?

A My written instructions were that in case of the approach of the enemy the prisoners were to be surrendered and the remaining troops were to join a combat unite.

PRESIDENT: Just a minute. Was that approaching or contacting the enemy?

PROSECUTION: Contacts.

PRESIDENT: Show the record as contact, not approach of the enemy.

Q Now, what time did you get into Neuburg.

A I believe it was 11:00 o'clock at nighte.

Q That was the subject of your conversation at that time?

A I told him that columns of Lieutenant Somerfeld's detail would arrive in Neumburg on Wald during the evening. They would take their work food there.

Q Who did you speak to on that occasion?

A With the Mayor himself.

Q That is his name?

A Mayerhofer.

Q What time did the column arrive?

A Somerfeld's column arrived in the evening between 7:00 and 8:00. I don't know exactly any more.

Q When did you next talk to the Mayor of Neumburg?

A I believe about 10:00 o'clock that evening.

Q Who did you talk with on that occasion?

A With the Mayor, Mayerhofer.

PRESIDENT: Mr. Bertocitz, before you proceed with any further questioning, I would like you to explain to the court the materiality of all this questioning.

PROSECUTION: Sir, that would be in my next question.

PRESIDENT: Proceed. Let's expedite the matter.

Q Isn't it a fact that in your conversation with Mayerhofer he told you that prisoners had been shot in the town of Neumburg and that you promised that you would order no further shootings would take place in the town?

A That was in the evening. I went into town with Mayor Mayerhofer immediately and as stated in my direct examination, saw the body itself.

Q Isn't it a matter of fact that on the occasion of a previous conversation with Mayerhofer he complained about several prisoners being shot in the town and on the second occasion he called you to task for

not keeping your promise that no prisoners would be shot?

MR. WALL: If the court please, I object to this question on the ground that there are too many questions in one. It should be broken down.

PRESIDENT: Read the questions.

(Thereupon the last question was read by the reporter.)

PRESIDENT: Objection sustained.

LT. COLONEL SERVICE: Mr. Berkowitz, that's a different name.

INTERPRETER STECKER: V-a-y-s-r-h-o-f-s-r.

WITNESS: No.

PRESIDENT: Just a minute. Do you want to withdraw your objection. The answer was given. It is in the records.

MR. WALL: I understand the answer came after the objection which I assume would be a nullity after the court had ruled on it.

PRESIDENT: The only thing for you to do is to put in a motion to strike.

MR. WALL: I move to strike the answer to the last question.

PRESIDENT: The motion is sustained.

Q. Now, Mr. Berrer, isn't it a fact that prior to this last conversation with the Mayor on which occasion he complained about the shooting of one prisoner, there was a prior conversation in which he complained about several prisoners being shot?

A. No.

Q. You are sure of that?

A. Yes, definitely sure.

Q. Now, when Sommerfeld and Roblo reported to you in Neunburg, did you inquire of them what happened to the prisoners on the way between Schwarzenfeld and Neunburg?

A. Of course.

Q What did they tell you?

A First Lieutenant Sommerfeld reported to me that he had taken his prisoners on foot according to orders into the district of Fusrme. Upon my question whether anything unusual had happened, he told me that he had had four cases of death. When I asked him about the cause of death, he told me they had died a natural death — that the prisoners -- the greatest part of the prisoners had been quartered in barns and they had been fed. That concerns Lieutenant Sommerfeld.

Q Didn't Sommerfeld tell you he had seen corpses of prisoners on the way?

A No.

Q Did you go back at any time to the transport to confer with prisoners or to find out from them how they were being treated on this transport?

A The column was stretched out over a long distance of a kilometer, so it was impossible for me to go and ---

MR. O'CONNOR: May it please the court, let the record show that the accused Skierka has returned to the dock.

Q Did you contact any prisoners or inquire of them how they were being treated on the transport?

A No.

Q Did you at any time confer with guards, or talk to the guards to find out what was taking place on the transport?

A Yes.

Q What did they tell you?

A That the columns had made their way without any unusual events. The last time when Graeber whom I met in Roding and who reported to me on behalf of his column leader Sommerfeld that the column was all accounted for.

A Did you make any inquiries on the way between Schwarzenfeld and Neumburg how the prisoners were being treated on the transport?

A On the first part to Schwarzenfeld, yes, I passed the columns. The car drove slowly as a man walks so I could confer with the guards as well as Lieutenant Schwarzfeld.

Q How far was that after you left Schwarzenfeld?

A That was not far; perhaps two kilometers.

Q So the distance of two kilometers until you reached Roding, you made no inquiries from the guards how the prisoners were being treated?

A In the evening when the prisoner columns arrived in Neumburg, I inspected the corpses at Neumburg with the Burgomeister.

Q How many corpses did you inspect?

A One.

Q How many times did Ginschel come to you and ask you for permission to go to the village?

A As far as I can remember exactly, I saw Ginschel in Thierstein with an SS woman who traveled with us. At the time I was in the station and asked him to pick up my wife and child who were in the village in a farmhouse. I saw him between 5:00 and 6:00 o'clock I believe by Luhewildenau when a Wehrmacht patrol brought him back. He had been loitering in this territory without any identification papers and I saw him in Schwarzenfeld shortly after the train had arrived when I had a conversation with Captain Reble.

Q Will you answer the question, please?

A I did answer it.

Q I asked you how many times he came to you and asked for permission to leave the column and go to the village.

A Sofar as I can remember at Thierstein and Schwarzenfeld.

Q Why did you on the occasion of Ginschel's taking the stand

and relating his repeated requests to you about permission to visit the twins with us shake your head and deny it

MR. MC KAY: That is objected to as wholly improper in form. There is nothing in the record to show that such an incident ever occurred.

PRESIDENT: Objection sustained.

MR. MC KAY: I move the entire question be stricken from the record.

PROSECUTION: I object to its being stricken from the record, sir. It is a perfectly proper question concerning the conduct of the defendant.

PRESIDENT: That was a motion on your part, Mr. McKay?

MR. MC KAY: Yes.

PRESIDENT: The motion is denied. However, your objection to the question is sustained. However, the court doesn't agree with your last statement, Mr. McKay.

PROSECUTION: I want to advise the court that I would not have asked the question if I didn't think it was proper.

Q Now, Mr. Berger, you have stated that you had differences with Koegel. Will you tell the court whether those differences with Koegel were due to your personal dislike of Koegel or whether it was due to your dislike of the operation of Flossenburg.

A I didn't say that I disliked Koegel, all I said was that there was a tension.

Q Will you tell the court if that tension was due to personal reasons or whether it was due to the manner of operation of Flossenburg?

A Both.

Q What did you dislike about Flossenburg?

A Mr. Prosecutor, just prior to that I had been behind the wires for five months. You can imagine you take a different view of things

than someone who has never been behind wires.

Q I asked you what there was about the operation of Flossenburg with which you were dissatisfied.

A Mr. Prosecutor, you can't relate in a few words, not even in a few sentences the conditions in such a camp.

Q Were the conditions in Flossenburg so unsatisfactory you can't tell the court in a few sentences what was wrong with it?

A The one thing that was wrong was for instance that the camp was so tremendously overcrowded. Weekly, almost daily transports arrived from the East. They came from territories which were approached already by the Russians. Prisoner columns from Buchenwald arrived. All of Buchenwald was evacuated to Flossenburg.

PRESIDENT: Just a minute. The court feels they have heard enough evidence as far as the conditions at Flossenburg are concerned.

Q Were you dissatisfied with the treatment of prisoners at Flossenburg? Answer my question "yes" or "no". I don't want a description of conditions, just a statement whether you were satisfied with the conditions in Flossenburg.

MR. MC KAY: I should like to have the word "treatment" defined.

Q What do you mean by treatment?

A I understand treatment to be -- to include everything that happens to a person.

Q Taking this definition, were you satisfied with the treatment of prisoners at Flossenburg?

A Not at all.

Q What did you do as deputy commander to improve that condition?

A I couldn't do a thing; couldn't stop the Russians; couldn't stop the Americans; I couldn't bring any new weapons into action, which would probably have been the only thing to restore normal conditions in such a camp.

(Lorger - Cross)

Q Do you mean if there had been different SS men there, there would have been better conditions in the camp?

MR. MCKAY: That is objected to as calling for a conclusion.

PRESIDENT: Objection sustained.

PROSECUTION: No further questions.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

MR. HALL: Sir, I have questions in the nature of cross examination. We have first the accused Penz.

Q Mr. Berger, I call to your attention the frequently spoken of watch incident between Pinter and Penz?

A Yes.

Q Specifically I call to your attention the testimony of Pinter before this court which was substantially as follows: "That the Italian prisoner identified Pinter and Penz as the ones who took the watches."

A I confirm it.

MR. HALL: Now, cross examination on behalf of the accused, Keiling:

PROSECUTION: If the court please, I do not see any occasion to cross examine for Keiling. There was no mention of Keiling on direct examination, as I recall.

PRESIDENT: That is the basis for your cross examination?

MR. HALL: The mention of the name Gorgel. That name was mentioned by Keiling in his direct examination before this court.

PRESIDENT: Proceed.

Q Mr. Berger, when was Gorgel the leader of the 2nd Company?

A From the 7th or 10th of January until the beginning of April 1945 -- I believe until the 15th of April.

Q Do you know whether or not Gorgel participated in the evacuation march?

A I don't know that because I left on the 16th and Gorgel stayed in Flossenburg with my former battalion and I did not have any soldiers from my old battalion with me.

Q Well, you know at the time you left Flossenburg, Master Sergeant Gorgel was still there?

A Naturally. There was a non-commissioned officer from my former battalion with me on this transport whom I knew and I knew Gorgel.

MR. HALL: That' all.

QUESTIONS BY DR. RACKER:

Q Mr. Berger, I show you Prosecution's Exhibit 85 the personnel file of the day. What date was on this document coming from Oranienburg that they agreed to your being deputy commander in Voegel's absence?

A January 29, 1945.

Q Did that letter actually arrive in Flossenburg?

A It is included in the personnel file.

Q Does that letter have a signature?

A No, it says "File".

Q How can you explain the presence of this document in the personnel file?

A From what I can see, it is a teletype message.

Q I hand you Prosecution's Exhibits 87 and 88. What date is on these documents?

A 1st of December, 1944.

Q Mr. Berger, please explain to the court how you could sign "IV" on the 1st of December 1944 when this letter from Oranienburg had only arrived the 29th of January?

A The "IV" has no connection with the deputy commander.

Q What does "IV" stand for?

A There are two ways - either representing or accounting for, or else power of attorney. These requests were signed by the man in charge of the administration section and were then sent to the commander for his signature. There were four or five hundred such copies.

Q Do all of these have the same date?

A Yes.

Q You spoke about four or five hundred. Do all the others which have not been offered into evidence have the same date also?

A Yes.

Q Please explain to the court how these documents were made up and how you signed them.

A These requisition documents were filled out by the Labor Commitment Office. The man in charge of the administration section signed them to show that they were correct and then they had to be signed again by the camp commander. On these lists it had been typed with the typewriter the camp commander, SS Lieutenant Colonel. Since there were too many of these lists, it is signed by the camp commander immediately. A bunch of these lists was given to Baumgartner as well as me and he gave us orders to sign the "IV".

Q Mr. Berger, I hand you Prosecution's Exhibit 89. Did you make up the contents of this letter?

A No.

Q Why?

A That can be shown by the signs of the file where it cannot be seen on the document, in the left hand corner.

Q Can you explain to the court how your signature got on this document?

A May I read this document?

PRESIDENT: Court will take a short recess in place in order

to give the witness a chance to read the document.

(Whereupon the court recessed in place.)

Q. Will you please explain to the court how your signature got on this document?

A I just read this document. It starts out with the words: "After an oral conversation with SS Lieutenant Colonel Dr. Bernsdorff from the Reich Security Office, etc.

Q What do you mean to say by that?

A I want to state that I did not write this letter because I do not know any Dr. Bernsdorff.

Q So you didn't have any talk with Dr. Bernsdorff?

A I don't even know him.

Q Does the file sign show who wrote this letter?

A It says "M K". There is no typing of dictation.

PROSECUTION: Just a minute, Doctor. Just what prosecution exhibit are you referring to right now?

DR. ACKER: 89.

Q That letter must have been written by the commander, Lieutenant Colonel Koegel because his rank is also typewritten on the document for him, and it has been changed, as can be clearly seen, at the last moment, so it is absolutely possible that Lieutenant Colonel Koegel called me and told me to sign this document together with others, because he was in his house already.

Q What date does this document have?

A 4th of January.

Q Does your signature have anything to do with your later appointment as deputy commander in case of Koegel's absence?

No, if I had signed anything as deputy commander, then it would read "the deputy camp commander, SS Major," and in this case it is only "M".

Q Please explain to the court what the signature would have been in case you had written the document and signed it.

A I never wrote any letter concerning prisoners. I signed documents as chief of personnel section and I also signed documents pertaining to the affairs of soldiers and that is when I signed the camp commander "IV" and that was with power of attorney since the personnel section was a section of headquarters.

PRESIDENT: Court will recess until 1330.

(Whereupon at 1200 hours the court recessed until 1330 hours.)

AFTERNOON SESSION

(Thereupon the court reconvened at 1330 hours)

PRESIDENT: The court will come to order.

MR BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr Denson and Mr Pinter who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Dr Angelhorn who is absent on business of the accused; all the accused are present with the exception of Gelhardt, Ginschel and Schubert, who are conferring with counsel, and Losch, Oswalt, and Lipinski, who are ill and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: Continuation of redirect, Doctor.

FRANZ BERGER, recalled as a witness by the defense, having been previously duly sworn, resumed the stand and testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY DR WACKER:

Q Mr Berger, I hand you this document which is marked as Prosecution Number 90 which the prosecution has already presented, and I ask you how it happens that your signature is on this document.

A The document represents the order commanding an Ukranian soldier and a Technical Sergeant of the SS to go some place and come back and these people were transferred either to the motor pool in Flossenburg or to the guard battalion. I had to sign this document of course in my capacity as Chief of the Personnel Section.

Q And you explained this signature here with this mark "I.V." to one side, acting for or with power of attorney of the camp commandant, Berger?

A As I said before, I was allowed to sign all documents in regard to the guard battalion or the SS with this remark "I.V." and I had the power of attorney to do this from the commandant, Koegel.

Q Did you draw up this document?

A Yes.

Q The next document I want to show you now is number 88 of the prosecution. Did you draw up this document?

A Yes, that is a personnel matter. That is a matter concerning officers, non-commissioned officers, who were in Flossenburg and had to take care of getting their own food.

Q Did these two documents Numbers 90 and 88 represent the fact that you were acting as a deputy of Commandant Koegel in his absence?

A No.

Q Mr Berger, you said that on two occasions you were the deputy of Koegel during his absence for a short period of time. Now, tell us whether any conference took place in regard to such events or whether it didn't.

A Koegel was away for one or two days and no special conference took place.

Q How were you told that this absence of his would take place?

A He told me that he was going to drive away and would come back in the evening.

Q You have told the court at various times what

rights and what duties you had to take care of during these various periods of time, what were the, based on?

A Koegel notified me that during his absence, during the few days he was absent, I had no power of command over prisoners and such people.

Q Did he definitely state that?

MR PERKOWITZ: Objected to as leading.

PRESIDENT: The objection is sustained.

QUESTIONS BY DR FACKER:

Q What do you base the statement on you just made?

A That is what he told me when he told me he would drive away for a few days. At the same time he told me that Baumgartner would continue in charge of the camp administration.

Q Did he ever give any directives in regard to prisoners during Koegel's absence?

MR PERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

QUESTIONS BY DR FACKER:

Q What directives did you give during Koegel's absence?

A I didn't give any directives at all. What I had in mind was getting food for people in the motor pool but I didn't do that on the basis of having any power of command but I was able to arrange it for Captain Kirsamer was a friend of mine and was able to help me out. He was also a comrade of mine in the field.

(Berger-Redirect)

Q Did you have to make a report after Koegel came back?

A No.

DR WACKER: I have no more questions at the present time.

PRESIDENT: Mr McKay.

MR MCKAY: I have some questions in form of re-direct on behalf of the accused, Ginschel.

QUESTIONS BY MR MCKAY:

Q Mr Berger, will you explain to the court what you told Ginschel at the time you gave him permission to leave the column at Schwarzenfeld and the other time you mentioned?

MR BERKOWITZ: If the court please, the question is objected to because there is no testimony that he gave him an opportunity to leave the transport at any time except in Schwarzenfeld.

PRESIDENT: I didn't get the last of that. Read the objection, please.

(Thereupon the reporter read the objection as follows:

"If the court please, the question is objected to because there is no testimony that he gave him an opportunity to leave the transport at any time except in Schwarzenfeld."

MR BERKOWITZ: I am referring to the testimony of the present witness.

PRESIDENT: The court recalls definitely, Mr Berkowitz, two times when this permission was given. There may be a question about location. Let's not go into argument there. All right, Mr McKay, anything further?

MR MCKAY: I was under the impression that the witness testified he gave him permission twice, once at Thierstein or some place, of that time where he was brought

in by an SS officer and the 2nd time at Schwarzenfeld where he gave him permission to leave the column.

PRESIDENT: The court doesn't recall the testimony exactly. The court desires to expedite the matter. The objection will be overruled.

MR MCKAY: Will you repeat the question, please?

THE WITNESS: I still remember it. I gave Ginschel permission to leave the column at Thierstein and Schwarzenfeld. I said that he could go away without any bother in view of the fact he wasn't assigned to camp police anyway, but that he would be back in time before the column moved on. Ginschel was never brought back to me by an SS officer but he was brought back to me in Luhewildenau by an army patrol.

QUESTIONS BY MR MCKAY:

Q Will you explain to the court, what, if any, reports you received with regard to Ginschel's conduct in Schwarzenfeld?

A On the trip to Poding Mrs Barth told me that Ginschel had been constantly under way with an SS assistant, female assistant, and I observed that myself in Thierstein when he reported back to me.

Q Did you see Ginschel in the evening in Schwarzenfeld before the transport left?

MR BURKOWITZ: Objects to as leading.

PRESIDENT: Objection sustained.

(Berger-Redirect)

QUESTIONS BY MR MCKAY:

Q After Ginschel had asked you for permission to leave in Schwarzenfeld when was the last time you saw him, Mr Berger?

A I can't remember that I ever saw him again.

MR MCKAY: That is all.

QUESTIONS BY DR WACKER:

Q Mr Berger, do you have anything else to tell the court about the evacuation march?

A No.

DR WACKER: No further questions.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR SEMKOWITZ:

Q Berger, in your examination you said you met a Lieutenant Schippel at Roding, is that correct?

A Yes.

Q Had you designated Schippel as leader of the column from Wolkenburg?

A Schippel had called me up on the telephone in Schwarzenfeld and told me about the column and I had told him to take care of the column.

Q Did you order him to take charge of the column?

A Mr Prosecutor, I don't know any more today in what form I told him.

Q And you did that as deputy commander of the camp, did you not?

A No, I did not do that as deputy commander but as an officer. I did it as the nearest officer whom Schippel could reach at that time.

Q Did you do that as commander of Flossenburg or did you do it just as a gesture?

MR HALL: I object to the question as already having been answered.

PRESIDENT: Read the question again, please.

(Whereupon the reporter read the question as follows:

"Did you do that as commander of Flossenburg or did you do it just as a gesture?"

PRESIDENT: Objection sustained.

QUESTIONS BY MR BERKOWITZ:

Q What authority did you have to designate the leader of the transport?

A I was a high ranking officer.

Q Did every higher officer have full power of command to assign junior officers to transports or to take charge of transports of subordinate camps?

A Yes, in an emergency state during war, yes.

PRESIDENT: Just a moment, Mr Berkowitz, the court feels questions of that nature simply are a waste of time.

MR BERKOWITZ: If the court please, the man has denied he acted as deputy camp commander. Here we have a question that he acted as camp commander. He appointed another officer as transport leader of a column coming from a sub camp of Flossenburg and I want to know by what authority he did that.

PRESIDENT: The question refers to an entirely different column, is that the idea?

(Berger-Recross)

MR H. BERKOWITZ: Yes, sir.

PRESIDENT: All right, proceed.

QUESTIONS BY MR BERKOWITZ:

Q You appointed Schippel to take charge of the column which came from Wolkenburg which had nothing to do with the column you were leading at that time?

A That is right.

Q Now, when you saw Schippel at Roding he gave you a report of the transport, did he not?

A No, when I got there he was standing with Lt Colonel Koegel.

Q And he gave his report to the commandant of the camp, did he not?

A Yes.

Q Now, was there any distinction in the German army regulations between a signature made as representative or in compliance with the power of attorney?

A No.

Q German army regulations provide no distinction between these two types of signature, is that correct?

A That is right.

Q Now, the orders which came down from Oranienburg referred to your taking charge In Vetretung, is that correct?

A I don't understand your question there, Mr Prosecutor.

Q I call your attention to Prosecution Exhibit 85 which contains the consent from Oranienburg concerning your assumption of duty as deputy camp commander using the words "In Vertretung", is that correct?

(Berger-Recross)

A Yes, that is right.

LAW MEMBER: I want to know what Vertretung means.

MR BERKOWITZ: Will the interpreter please interpret the word "Vertretung"?

INTERPRETER: Vertretung means representation.

QUESTIONS BY MR BERKOWITZ:

Q Yesterday when you were shown the exhibits signed by you both before and after the word, you translated each time the letters "I.V." In Vetretung, or your read those letters "I.V." Is that correct?

A Yes.

Q And today on your cross examination for the first time you read those letters for the first time as "In Vollmacht" or by power of attorney, is that correct?

A According to this document it wasn't until the 29th of January that I was authorized by General Glucks according to this document to sign these documents "I.V."

Q Will you answer my question, please?

A Yes.

Q Who did you talk to in the meantime to cause you to change your translation or interpretation of those letters "I.V." from In Vetretung to In Vollmacht?

A Nobody told me to do that.

Q Now, you signed the order before the appointment with the letters "I.V." didn't you?

A Yes.

LT COLONEL WILSON: May it please the court, let the record show that Gelhardt and Schubert have returned to the dock.

QUESTIONS BY MR BERKOWITZ:

Q And those that you signed afterward bore the same letters "I.V.", is that correct?

A Yes.

Q And your SS personnel that you signed were signed "I.V."?

A Yes.

Q All those that concerned the prisoners were signed "I.V.", were they not?

A What matters?

Q Well, you signed those documents concerning prisoners?

A Yes.

Weren't they signed "I.V." in same way?

A Yes.

Q Now, didn't you say that on the two occasions when you took over the command of the camp that Baumgartner was away with Koegel?

A No, I didn't say that and I couldn't possibly say that because Baumgartner was not away with Koegel.

Q Now, you stated that there was tension between you and Koegel and you said it was partly because of the manner in which prisoners were treated at Flossenburg. Would you say that the prisoners at Flossenburg were treated in the manner that a moral man could condone?

MR. ROBERTS: The question is objected to as calling for a conclusion by the witness.

MR. MERRITT: If it please the court, if the defense counsel believes the witness does not know what a moral man can condone, he may be right, but under any

(Cross-examination)

ordinary circumstances any individual would be able to answer that question.

PRESIDENT: The court feels there might be quite a difference of opinion about those things. So far as the individuals themselves are concerned. The objection of Mr McKay is sustained.

QUESTIONS BY MR BERKOWITZ:

Q Could you condone the treatment of prisoners at Flossenburg?

A No.

MR BERKOWITZ: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DR WACKER:

Q Mr Berger, I hand you those personnel documents again and I refer to the document of Oranienburg bearing date 29 January 1945 in Prosecution Exhibit Number 85. It reads here, "It is agreeable to me that Major Berger of the SS take over charge of the guard battalion there and will be commissioned with your representation during your absence". Signed "Glucks". When it says here "will be commissioned with", I ask you how was that taken care of. I want to ask you whether you were commissioned once and for all in that capacity, or whether you were commissioned in each particular instance.

MR BERKOWITZ: Objected to as leading.

PRESIDENT: The objection is overruled.

THE WITNESS: In this document bearing date 29 January 1945 it is repeatedly printed "during your absence".

QUESTIONS BY DR WACKER:

Q Mr Berger, you didn't answer my question. What I am driving at is, every time that Koegel was absent were you commissioned or were you on one occasion commissioned thereafter?

MR BERGOLITZ: That is objected to as leading.

PRESIDENT: All right, Doctor.

DR WACKER: It is impossible to clear up this matter without posing the question in that form. If I don't ask this question like that I will have to spend fifteen minutes asking leading up questions so that the witness knows what I am talking about.

PRESIDENT: The objection is overruled.

THE WITNESS: On these two occasions when Koegel was absent he advised me and commissioned me with this capacity.

QUESTIONS BY DR WACKER:

Q Was Schippel an officer of the camp of Flossenburg?

A No.

Q Was Koegel present as commandant of the camp at this time when Schippel called you?

A I don't know that. I was in Schwarzenfeld. I was the nearest available officer whom Schippel could reach.

Q How was this document from Oranienburg dated 29 January 1945, to be judged if it is for that period after

you had been relieved of your duties as commander of the guard battalion?

MR [illegible]: I object to that question. It invades the province of the court.

PRESIDENT: Objection sustained.

MR [illegible]: Nothing further.

PRESIDENT: Recross?

MR [illegible]: Nothing further.

PRESIDENT: Gentlemen of the court, apparently not. Redirect? Anything further?

DR [illegible]: Nothing else.

PRESIDENT: Any questions by other defense counsel?

[illegible]: Nothing further.

PRESIDENT: Larger, at this time the court will give you an opportunity to make any explanation to the court you see fit or any statement to the court. You may proceed.

MR [illegible]: If it please the court, from my very youth I have been a soldier all my life. During peace time I never had any duty in a concentration camp. From the very beginning of the campaign I was at the front, until I was transferred back to Germany as being wounded in the war with the highest classification, that is with the worst wounds. In the last months I went to Flossenburg. I did not go voluntarily. I merely carried out an order which was given to me as a soldier. During the eight weeks I was at Flossenburg I behaved in a humane manner toward the prisoners and I believe that the evidence shows that. During the movement of the transport I did everything that was

(Berger-redirect and statement)

humanly possible in order to protect the prisoners and I beg the court to take that into consideration when they determine my case. The two German defense counsels, especially Dr Hacker, and the American officers who were placed at my disposal under the supervision of Colonel Wilson have done everything they could do. They have given themselves the greatest pains to do everything possible to help us. I consider it a necessity to thank them publicly now. That is all I have got to say.

PRESIDENT: The court understands the defense has finished with this particular witness for the time being.

DEFENSE: Yes.

PRESIDENT: The witness will be excused and will return to his position in the dock.

(Whereupon the accused was excused and resumed his seat in the prisoners' dock.)

PRESIDENT: The court will take a short recess.

(Whereupon the court took a short recess in place)

PRESIDENT: The court will come to order. Defense?

MR GIESSNER: If it pleases the court, the next witness we have is Ernst Weber who will testify in behalf of the accused Number 46, Thierack.

Ernst Weber, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR GIESSNER:

Q Mr Weber, what is your full name?

A Ernst Weber.

(Weber-direct)

Q Were you a member of the Waffen SS?

A Yes.

Q What was your highest rank?

A Sergeant.

Q Were you ever assigned to Camp Flossenburg?

A Yes.

Q Were you in Flossenburg on the 20th of April, 1945?

A Yes.

Q What were your duties at that time?

A In the end I was Sergeant and trainer. I came back from an official trip and joined the same department when the people marched away.

Q Are you referring to the evacuation of the camp?

A Yes, I am referring to the evacuation of the camp.

Q Will you describe to the court what happened just prior to the evacuation of the camp on the 20th of April, 1945.

A Yes. The troops, the companies were split up, divided up, leaders to guard the inmates during the evacuation.

Q How were they divided?

A They were assigned to the individual columns which were to march away.

Q How many columns were there?

A I was in the third section of the first column.

Q And who was in charge of the first column?

(Weber-Direct)

Q Were you a member of the Waffen SS?

A Yes.

Q What was your highest rank?

A Sergeant.

Q Were you ever assigned to Camp Flossenburg?

A Yes.

Q Were you in Flossenburg on the 20th of April, 1945?

A Yes.

Q What were your duties at that time?

A In the end I was Sergeant and trainer. I came back from an official trip and joined the same department when the people marched away.

Q Are you referring to the evacuation of the camp?

A Yes, I am referring to the evacuation of the camp.

Q Will you describe to the court what happened just prior to the evacuation of the camp on the 20th of April, 1945.

A Yes. The troops, the companies were split up, divided up, leaders to guard the inmates during the evacuation.

Q How were they divided?

A They were assigned to the individual columns which were to march away.

Q How many columns were there?

A I was in the third section of the first column.

Q And who was in charge of the first column?

A I saw the former Second Lieutenant Skierka and the former commandant of the camp, Koegel.

Q Will you look in the dock and see if you can find the man known as 2nd Lieutenant Skierka and see if you can identify him?

A He is the one here. (Indicating)

Q What number?

A Forty-six.

MR O'CONNOR: Let the record show that the witness identified Skierka as number 46.

QUESTIONS BY MR O'CONNOR:

Q Prior to the evacuation of the first column will you tell the court just what happened in the camp?

A I can't tell you much about what happened then before the evacuation because I was not there very much and I didn't join the column until it was already marching away.

Q Will you please tell the court if you know what instructions or orders were issued to the guards and the SS men prior to their departure?

A I can't tell you that because I wasn't there, but I did hear that during the departure, during the march, the same guard regulations had validity as always.

Q What were they?

A They were the same guard instructions according to which use could be made of a fire weapon only if a prisoner were attempting to escape.

Q When the first column marched out what were your duties?

(Weber-Direct)

A I wasn't actually assigned to the column but I did have charge of a baggage wagon and there were ten prisoners assigned to that. On the baggage wagon were marching equipment, knapsacks, and food for the march. It was a small handwagon with four wheels and rubber tires and with this wagon was joined the end of the third column.

Q You mean the third column or the third marching block of the first column?

A Pardon me. I meant to say the third section of the first column.

Q Where did the first column proceed on the first day.

A The first column marched in the direction of Neuenhammer by way of Pleystein and passed roughly ten to twenty kilometers past Pleystein and there they made a break. They rested.

Q Where was the first break made on the first day?

A The first break on the first day was made near a saw mill which was at the edge of a forest in an open meadow.

Q What time did you arrive there?

A I can't remember exactly but it was roughly between 12:30 and 1:30.

Q How long did you stay there?

A The break lasted about three quarters of an hour.

Q Where did you go from the forest near Neuenhammer?

A The column marched further on in the direction of Pleystein.

(Weber-Direct)

Q Just a minute. Go back to the forest before you got to Neuenhammer before you made the break--please tell the court what instructions, what orders, the guards received while they were in the forest.

A The guards took up their guard posts and camped at a certain distance round about the prisoner column.

Q Well, did you receive any instructions or orders at that time?

A No, I didn't get any.

Q Can you tell the court where 2nd Lieutenant Skierka was during this time?

A I was at the end of the column and for that reason I saw him standing at some distance away and then he went away.

Q Can you tell the court what means of transportation was used?

A He had a bicycle.

Q How far beyond the town of Fleystein did you get on the first day's march?

A I estimate ten to twelve kilometers.

Q What time did you reach your camping place for the night?

A I can only estimate that time. It was roughly between seven and eight o'clock in the evening. It was about one-half hour or three-quarters of an hour before darkness fell.

Q Approximately how far is it from the forest where you made your first break of the day to the place where you

your break for the night?

A Very roughly it would be 17 to 18 kilometers from the first place we made our rest up to the last bivouac place.

Q You have testified that Koegel was with the first column. Can you tell the court where Koegel was on the first night, spent the first night?

A I know that Koegel was spending the night in a village about 1 or two kilometers away.

Q Can you tell the court where Skierka spent the night?

A It was possible that Skierka was also at night in this village in question.

Q You mean by that you don't know?

A I didn't see it, but I heard it.

Q How often did you have occasion on the first day to see Skierka?

A I saw him twice on the first day at the first bivouac place near Neuenhammer and then in the evening I saw him again as we were arriving at the new place to take a rest, but he was already departing then.

Q Please tell the court what further instructions or orders you received during the first day's march?

A You mean where we made our break?

Q Any orders you received at any time if you received any at all.

A No direct orders were given. The only thing was the word went around that we would march away the next morning early.

Q Do you know where that came from?

A I don't know that. That was spoken around from mouth to mouth.

Q What time did the column move on on the next morning?

A It was about seven o'clock the next morning when the column moved on.

Q From what you stated, there were camp police with the first column, were there not?

A Yes. The first column was guarded by a mixture of guards consisting of the SS, the camp police and Ukrainian guards.

Q Do you know how many camp police were in your column?

A No, that is unknown to me.

Q Did you know a former prisoner in Flossenburg by the name of Adolf Kurfuer?

A I knew him very well from the time when we were in the camp.

Q Can you tell the court whether or not he marched with your column?

A I didn't see him that I know of.

Q Proceed. Tell the court what time you left and where you went on the second day's march.

A Around 7:00 o'clock the next morning we started out and we marched through various villages in the direction of Cham. There is where we first went.

Q What time did you reach Cham?

(Master-direct)

A. We didn't reach them on that day. Just gave us the direction we were marching to. Then we were passing the first village we saw Kroegel, the adjutant, and a number of officers standing at the edge of the road. I don't recall how these officers, they were unknown to me. In the forenoon, roughly between 11:00 o'clock, we made our first break in a meadow on the right side of the road and toward the afternoon, it was about 1:30, because of a very severe storm, we made another rest at the side of a fishpond.

Can you tell the court whether Koegel issued any orders or instructions when you saw him there at the side of the road?

A. No, he didn't give any orders at all, he just stood there silently and watched the column pass and half observed it.

Did you receive any instructions or orders from anyone during the time of that first break on the second day?

A. I didn't hear any orders at all during the first break.

Did you have occasion at any time during the second day of the march, to talk to Skierka?

A. Yes, I had occasion.

Tell the court the nature of that conversation.

A. The conversation involved itself about the following topic -- I had seen some dead bodies along the road and I asked Skierka about them. I asked him whether a direct order had been given and if so, who had given it in regard to prisoners who could not keep up the march, whether

(Cross-Direct)

they were supposed to be shot down or not.

Q What did he have to say?

A Skierka said that neither the commandant nor he had given any such order and that all available steps must be taken in order to avoid any such thing happening.

Q What did you do?

A Since the leader of this column, it was either a first sergeant or a technical sergeant from the air force could not be found anywhere, on my own initiative I ran down the whole length of the column and gave the strict order that no one was to make use of his gun under any condition. And I threatened everybody with the fact that if I found out about anybody doing that I would report him immediately on the first chance I had, to the commandant. And I immediately set up a detail which was to trail along behind, consisting of two SS men and two camp police, since it was known to me that the general feeling in the column was that the SS and the camp police(~~police~~ paid a great deal of attention to each other mutually, checked up on each other, and I gave the orders that they should pick up all stragglers from the column, and even if it lasted four or five hours, they had to bring them up from the rear slowly. I remember one of these camp police who received this assignment, a certain (I believe it is spelled L-o-u-s-e-r), I can't spell it exactly.

Q Will you tell the court how many dead bodies you saw along the road?

A That is hard for me to tell you. I can't tell you exactly because I didn't count them. I'll have to give

you a very cautious estimate and that is very cautious. In the course of the march it could have been 40 to 50 dead bodies I saw in the whole course of the march.

Q Can you tell the court what column those bodies were from?

A These bodies must have come from a column which preceded us because with the exception of one case, I never knew that any shooting was done in our column.

Q That was the one exception?

A That was a Ukrainian platoon guard who shot down a prisoner at some distance ahead of me. The prisoner wasn't capable of marching anymore. When I heard the screams and the shot I ran up front very quickly and I told this guard I would report him to Koegel at the first opportunity and I did that, also.

Q What happened to the Ukrainian?

A I ordered him to get out of the column and I saw him remove himself at some distance and hover around at the outskirts of the column.

Q When you saw Skierka on the second day of the march, what means of transportation was he using?

A I always saw Skierka with his bicycle.

Q Where did you make camp on the second night?

A On the second night we made a break on the right side of the road in the direction of Chem at the edge of a forest section alongside the Ostmark Highway.

Q What time did you make the break?

A I estimate the time roughly between 4:00 and 5:00 in the afternoon.

Q Tell the court what instructions or orders you received on the occasion of that break.

A. The new directive was in effect to that the guards should come round about the prisoners and that they should be relieved every two hours, and the guards could pick up food and take a rest in a house which was standing all by itself there, and for the most part of the time they had to stay in the forest section where the baggage wagons were. And the prisoners received food for the march on this evening for the first time.

Q Can you tell the court where Koegel was at this time?

A At the time when we were starting to make our break there Koegel was on the street in his automobile with some other officers and he gave some directives and reported to whole thing but I don't know what directives he gave.

Q To whom did he give those directives?

A Among other people, to Sklerka.

Q Did you ever learn what those directives or orders were?

A I didn't hear it exactly but it probably concerned the fact that the prisoners should be guaped properly; they should be fed properly; and should pick up some water there or a brook that was passing by.

Q Do you know where Sklerka was that night?

A Sklerka slept in this farmer's house in the neighborhood on that night.

(Weber-direct)

Q Did anything unusual happen during the night, that is, the night between the second and third days' march?

A Yes. I especially remember a column which was marching through and there were a lot of shots, a terrible number of shots being fired in this column, and I had the impression and I believe I had the right impression, that the people were merely shooting off their ammunition, and we had to assume that because there weren't any dead or wounded lying on the street.

Q Did you find out what this column was?

A I don't know that because there were too many ricocheting bullets in the forest there and we all looked for cover.

Q In what direction was this column marching?

A This column was marching in the direction of Chan also, but I must add here that while this column was passing it was impossible for me to determine whether that was a column of prisoners or a column of soldiers marching back.

Q What time did that happen?

A Between 11:00 and 12:00 o'clock at night.

Q Were you able to determine the nationality of the people making up this other column?

A No, as I said before, we didn't approach this column, we didn't get nearer to it, because we were afraid of the ricocheting bullets, and all we thought about was

(Re-direct)

hunting for cover in the forest.

Q When did you next resume the march?

A We picked up the march again in the night, that is to say, between 2:00 and 3:00 o'clock the next morning.

Q Where did you go?

A We marched to the end of this Ostmark Highway which ends just before Gram, it isn't completed, and turned off to the right into a village.

PRESIDENT: Court will take a fifteen minute recess.

(Thereupon at 1500 hours the court recessed until 1515 hours.)

(cross-direct)

(Whereupon the court reconvened at 1515 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: (Mr. Gurowitz) If it please the court, may the record show that all members of the court are present, all members of the prosecution, with the exception of Col. Denson and Mr. Pinter, all members of the defense staff with the exception of Mr. Hall and Dr. Stugelhorn, who are absent on business of the accused; all of the accused are present with the exception of Ginschel, who is in the hospital, Lesch, Oswalt, and Lipinski, who are sick and whose interests are being taken care of by counsel. The witness is reminded he is still under oath. If there are any spectators in the court room who expect to be called as witnesses, they will please leave the court room.

ERNST WEBER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. [illegible]

Q Mr. Weber, where was Kogel when you gassed them, for the third night?

A I don't know. I also heard that he was in that house too, but I don't really know.

Q What time did you leave the next morning?

A Approximately between two and three o'clock.

Q What happened?

A The column kept getting bigger and bigger and when we reached the end of this Ostmark Highway it turned off to the right and went to a village. It was still dark then and in the middle of the village we turned off to the left, went across a bridge and went across a field. At least it seemed to be a field in the darkness. It was still dark at that time.

Q Mr. Weber, you are still talking about the third day; I am talking about the fourth day.

(Weber - direct)

A There were only three marching days; the fourth day of the march was when the column was deactivated; that was on a Monday. Yes, that was on a Monday when the column was dissolved. Deactivated.

Q Do you know where Skierka was on that last day when the column was deactivated?

A Didn't see him. Pardon me, just a second. In the forenoon when the column shoved off he was still in this farmer's house, which stood alone by itself.

Q During the course of the entire march, will you tell the court how Skierka was armed?

A For two days I saw him with a machine pistol, the latest model, and at the end he didn't carry it any longer.

Q Tell the court whether you ever saw him use it, or otherwise?

PROSECUTION (Mr. Berkowitz) Objected to as leading.

PRESIDENT: Objection sustained.

Q Tell the court what you saw him doing with this machine gun?

A He just had this machine pistol hanging at the front of him.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. Proceed, Mr. O'Connor.

Q Mr. Weber, earlier in your direct examination you testified that after the time you saw the dead bodies along the roadside you had a conversation with Skierka and that immediately thereafter a detail was formed to take care of the prisoners who could not keep up with the march?

A Yes.

Q Please tell the court what happened to prisoners who fell behind thereafter?

A They were picked up by this detail which brought up the rear. I couldn't see it with my own eyes because it stayed at some distance behind the column.

Q Did you have any further conversation with Skierka relative to

the same matter?

A No. No more.

DEFENSE COUNSEL (Mr. O'Connor) That is all.

PRESIDENT: Cross examine, Mr. Berkowitz.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ

Q You mean to say that Skierka didn't ask you how the detail that you had set up to go behind the column was operating?

A He didn't ask that. It was possible that he was hindered in doing so because he had so much official work to do. He was well up ahead of the column and I couldn't have given him any answer anyway, because I didn't observe this detail any more, which was at the tail of the column, because it stayed back.

Q How many groups were in this column

A Consisted of four groups.

Q You were in the third?

A With the third group.

Q How many men in your group?

A I didn't count them but I heard that there was a thousand men. It could have been somewhat less.

Q There were at least two thousand men ahead of your group; isn't that correct?

A Yes, and no. Because it was a helter skelter when we made breaks. He would make breaks at irregular intervals and it happened that the last column would be the first column, and the first column would end up at the end or in the middle.

Q These groups were all under Skierka, weren't they?

A Well, at least he had the direction and he had to make a decision about where the break would be made.

Q Well, did you report to any other officer about what you saw on the transport concerning the third group of this column?

A No, couldn't make any report to any other officer because I personally didn't see any other officer except on this forenoon in question, when I saw these unknown officers with Koegel.

Q So Skierka was the only officer with these four groups to which you were attached?

A That was the only one I saw besides Koegel and the adjutant.

When did you get the order that the prisoners were to be shot through the heart instead of through the head?

A I was never given any such order. I was with the baggage car at the tail of the column and I never knew about any such order.

Were you at the tail of the column or the tail of the group?

A At the tail of the group. That is how it is.

And there was part of the column still behind you, wasn't there?

A Yes, that was. This group that was going behind me.

And that group belonged with the same column, didn't it?

A Yes, but they kept changing places.

Now when you noticed these 40 bodies or so, did you examine them?

A No.

Q Did you know what the cause of their death was?

A I couldn't see that.

Q What did you see?

A We saw blood on the dirt field and you could see that there had been a shot fired on the top of the last fragment of the vertebra in the back of the head, and there were also wounds sometimes on the side of the head. It all depended. It varied.

Q Did you see anybody after that time?

A After what time?

Q After you saw this group of 40 bodies about which you spoke to Skierka?

(Weber - cross)

A Yes, I saw some again at the last minute when the column was flanked by machine gun fire from an American tank unit.

And how many bodies did you see then?

A I can't tell you that. That was a general turmoil and I can't tell you how many there were.

Q These were bodies of prisoners?

A They were partly prisoners, but I can't tell you whether they were dead or not; I merely saw them collapse.

Do you know what made them collapse?

A The shots were responsible for that. It was very obvious that the shots were hitting the center of the column. They were phospherus cartridges.

Now you say you set up a detail to travel behind the column and take care of the prisoners who couldn't walk, and you say you also remained behind the column. Did you have an opportunity, or what did you see this detail do?

DEFENSE COUNSEL (Mr. O'CONNOR): Just a moment, there is a mistake in the record. The witness testified he remained at the rear of the group; not the column.

Mr. BARKOWITZ: I withdraw the question. Where did you send this detail that was to pick up sick prisoners? Did they go behind the group or behind the column?

A I let this detail, which was to stay behind, drop back slowly that is to say, they didn't keep up the same pace which our column was keeping and I let the various prisoners fall out on the sides so that they would be picked up by this detail which was bringing up the rear.

Q Bringing up the rear of your group?

A Just before that. And I let the word be called about the column of the prisoners that anybody who wanted to drop back could do so without any fear; nothing would happen to them.

(Weber - cross)

Q And this commando followed your group?

A Yes, they kept drawing back at a greater distance.

Q And you traveled behind your group?

A Yes, I stayed with the column, at the end of the column, with my baggage car, and with the ten or twelve prisoners which had been assigned to me. I didn't have power to give any other orders; what I did, I did on my own initiative.

Q Well, did you observe what this detail was doing behind the group?

A As far as I could observe it, as well as I could observe it, I saw them picking up the various prisoners and gradually bringing up the rear, nice and slowly.

Q Did they continue to walk?

A Yes, they continued to march on foot, the prisoners held each other's arms and supported each other mutually and came up gradually.

Q What happened to those who couldn't continue to walk, even slowly?

A The order was given, the directive was given that people who couldn't walk at all would be carried by five or six men who still had some strength, but I couldn't see that any more myself because this detail had dropped back too far. Or whenever it was possible to send them into the forest so that they would be out of sight.

Q What did they do when they got them out of sight?

A I don't know that. I can't tell you.

MR. BERKOWITZ: That is all.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Weber, Mr. Berkowitz asked you if the detail followed your group. Now I would like to know how far back of you they followed?

A The interval did not remain constant. The prisoners were not

capable of keeping up the ordinary pace and they kept getting farther and farther behind.

What was the largest distance that they fell behind?

A I can't tell you that any more, because I lost sight of them afterward.

Q You mean they got out of sight?

A Yes. I lost sight of them because the interval kept getting bigger and bigger.

PRESIDENT: Recross examination?

MR. BURKOWITZ: Nothing further.

PRESIDENT: Questions by the court? Apparently none. Does the court understand, Mr. O'Connor, that the Defense has finished with this witness?

MR. O'CONNOR: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the court room.)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

MR. O'Connor: The next witness, if it please the court, for the defense will be Johann Sigl, who will testify in behalf of the accused Mohr.

JOHANN SIGL, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q What is your full name, please?

A Johann Matthias Sigl.

Q What is your occupation?

A Switchman.

Q Where do you live?

A Munich.

Q Are you a free man today?

A Yes.

Q Where were you employed during the months of July to December, 1942?

A From the 8th of July until 8th of December I was employed with the water work construction in Flossenburg.

Q Where was that construction being built in Flossenburg?

A In the forest.

Q When you say Flossenburg, do you mean Camp Flossenburg or the village of Floss?

A In the forest of Flossenburg, [illegible] the town of Floss.

Q What was the nature of this construction?

A We were laying water pipes.

Q Who was performing the labor on this construction?

A The firm Lang from Munich had charge of this work.

Q Who was performing the manual labor?

A We had the supervision of the prisoners; had to guide the work.

Q Prisoners from where?

A From Flossenburg.

Q Do you mean Flossenburg concentration camp?

A Yes.

Q Who was in charge of the detail of the SS men that were guarding the prisoners that were working on that water detail?

A Pardon?

(Question repeated by the Interpreter.)

A Mr. Mehr.

Q Will you look in the dock and see if you can find the man that you knew as Mehr; and, if you can, identify him?

(The witness indicated by pointing.)

Q What number?

(Vigl - direct)

A 28.

Q The witness correctly identifies No. 28 as Mohr. Will you please tell the court what Mohr's duties were on that detail?

A Mohr as detail leader merely had the supervision of the prisoners.

Q And what were your duties?

A I was entrusted with the firm to see to it that the work was carried out.

Q During that period that you were on this construction detail, please tell the court approximately how often you would have occasion to see Mohr?

A Mohr was with me--just a second. (Witness consults memorandum.) From the 26th of August until the 8th of December, 1942, Mohr was with me.

MR. BERKOWITZ: Unless we know the source of the information referred to by the witness I ask that the answer be stricken.

MR. O'CONNOR: I will try and find out, sir.

LT. COL. SKIELVIG: Will the reporter please repeat that last answer?

(Whereupon the answer was read by the reporter.)

PRESIDENT: Ruling on the motion will be held in abeyance.

Q What is that paper you just testified about?

A They are my notes.

Q Were they made by you?

A Yes; I have the documents at home. The pay accounts.

Were the remarks that are written on this paper taken from your records?

A No, that was just a copy of the lists which I turned over to the firm.

Were these notes taken from your records?

A Yes.

MR. O'CONNOR: Is that sufficient?

Mr. BERGOLITZ: I would like to know when they were made.

Q When did you make these notes on the piece of paper from which you are reading?

A When I got the first summons to appear here.

Q When was that?

A It was the beginning of October. I don't know the date any more.

PRESIDENT: Motion to strike on part of Prosecutor is denied.

Now during the period of time that you have just testified about how often, on an average day, would you have occasion to see Mr. Mohr doing his duties?

A I would see Mohr, at the most, three or four times all day long.

Q How many guards did he have supervision over?

A That varied. At the beginning when Mohr came to me, 110 men.

Q Were these guards or prisoners?

A Prisoners.

Q How many guards?

A 16, 17, 20; it all depended.

Q Did you have occasion, during the time you were there, to observe how Mohr treated the prisoners who were out working on that detail?

A The construction place was too long. I couldn't get a clear view of the whole place.

Q Well, did you see Mohr associating with the prisoners in his official capacity?

A Yes, he carried on conversation.

Q Tell the court how you saw him treating prisoners?

A Mohr treated the prisoners well.

Q What do you mean by that?

A Well, nothing like any beatings ever took place.

Q Did you at any time have occasion to go down along the location where the water detail was being constructed?

(Sigl - direct)

A Yes.

Q Mr. Sigl, had a prisoner been beaten to death on that construction detail during the time you were there, would you have known of it?

MR. BERKOWITZ: Objected to as leading?

PRESIDENT: Objection sustained.

Q Will you explain to the court what you heard while you were working on this detail with respect to any prisoner having been beaten to death?

MR. BERKOWITZ: That is still a leading question, sir.

PRESIDENT: Objection over ruled.

A No, that did not happen. No beating to death ever took place.

Q Now please describe to the court what you saw Mahr carrying in his hands when you saw him on that detail?

A Please repeat the question?

(The question was repeated by the Interpreter.)

A It was more or less a case, you might say, that the detail leader carried a switch.

Q Did Mr. Mahr carry one?

A A small switch.

Q Tell about what size was it, in diameter?

A Well, perhaps two centimeters, one centimeter. It varied.

Q How long?

A Not long; fifty or sixty centimeters.

Q Please explain to the court what, if anything, you ever saw him doing with this switch.

A I never saw Mahr doing anything with that switch.

MR. O'CONNOR: No further questions.

MR. McKAY: Let the record show the accused Gimmehell has returned to the dock.

(Sigl - direct)

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q How many capos were on this detail?

A At the beginning there were the following: Capo Schreff.

Q Any other?

A Fraus.

Q Anybody else?

A No.

Q Do you know whether any of the prisoners were ever injured on this detail?

A No.

Q Did you hear of prisoners who had been injured at the work and had to be carried back to the camp?

A I myself had to spend most of my time in the building shack. I had to do clerical work, and I didn't see anything like that.

If some prisoner had been injured in the work would you have known anything about it?

A Yes, I would have found out about it.

Q How would you have found out?

A When we ended our work at the end of the working day the prisoners had to fall in at the construction end.

Q What did you do?

A I didn't do anything.

Q How would you know if any prisoner had been taken back to the camp because of an injury?

A Well, I could have seen it because the people were standing in line there.

Q Suppose he had been taken back to the camp during the course of the day because of an injury, would you have known about it?

A I would have found out about that, because of the noon recess.

(Sigl - cross)

Q How would you have found out about it at the noon recess?

A When the prisoners came to pick up their food.

Q How would you know, when they came to pick up their food, if somebody had been injured or not?

A I would have seen it.

Q Well, suppose he was no longer there and had been taken back to the camp, would you have known whether somebody had been taken back during the morning or during the afternoon?

A Then I wouldn't have found out about it.

Q And if somebody had been wounded because of beatings, instead of through injuries on the work, you wouldn't have known about it either, would you?

A As I said before, I only saw the people when they fell in and were being led back to the barracks.

MR. BERGOLIT: No further questions.

PRESIDENT: Redirect?

MR. O'CONNOR: No redirect.

PRESIDENT: Questions by the court?

QUESTIONS BY LAW MEMBER:

Q Were you keeping a record of the number of people working on the job?

A You mean how many workers were working there?

Q Yes.

A There were 110 and then by December that number had dropped down to forty.

Q No, did you keep a daily record of the number of prisoners reporting to work in the morning and who left in the evening?

A Yes, that was in the record book.

Q In the evening did this book indicate any less prisoners than had reported to work in the morning?

(Sigl - cross)
court)

A I myself kept this book; nobody ever was missing.

Q But did this record indicate that you had the same number of prisoners every evening at roll call that you had in the morning at roll call?

A Yes.

LAW MEMBER: That is all.

PRESIDENT: Further questions by members of the court? Apparently none. Redirect examination?

MR. BERKOWITZ: I have another question.

CROSS EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ:

Q Did you count the prisoners every morning?

A I made this entry on the basis of information by the co mande leader.

Q Count the prisoners at night?

A I got that information from the detail leader also.

MR. BERKOWITZ: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You had nothing to do directly with the prisoners, did you?

A No.

PRESIDENT: Further questions by members of the court? Apparently not. Mr. O'Connor?

MR. O'CONNOR: That is all, sir.

PRESIDENT: Witness will be excused.

(Whereupon the witness was excused and left the court room.)

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

(Sigl -court)

Take 676. 12-12-mdh-15.

MR. O'CONNOR: If it please the court, the next witness will be Hans Moneka, who will testify in behalf of the accused Skierka, No. 46.

HANS MONEKA, recalled as a witness by the Defense, having been previously duly sworn, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: The court cautions you that you are still under oath.

A Yes.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Your name is Hans Moneka?

A Yes.

Q You have testified here on one or more occasions?

A Yes.

Q And you were an acting first sergeant, I believe, at Camp Flossenburg, is that correct?

A Yes.

Q Did you take part in the evacuation of Camp Flossenburg?

A Not directly.

Q Did you go along?

A Two days. On the second day I followed after with the bicycle.

Q When did you first hear that Camp Flossenburg was to be evacuated?

A I found out about that for the first time in the evening of the 15th of April.

Q And from whom did you hear it?

A Skierka told me.

Q Will you look in the dock and see if you can find the Skierka that told you; and see if you can identify him?

(Moneka - redirect)

A No. 46.

Q The witness has identified Sklerka as No. 46. What did he tell you on that occasion?

A He told me on the evening of the 15th of April that next morning, that is the 16th, the camp would be evacuated.

What happened on the 16th?

A And on the morning of the 16th the guards, the men were brought together by companies and received their equipment and marched away by companies.

Q Prior to the time you marched out, tell the court what instructions or what order you received?

A The only order that I got was that everything should be ready for the march.

Q What personnel made up the transport?

A It merely consisted of guards. That is, no prisoners.

Q Weren't there prisoner guards?

A On the 16th there weren't any prisoners at all there.

Q Were there any camp police?

A Yes, camp police were there.

Q Who were they?

A That was about 400 men. They consisted of former prisoners.

Q How many men left all together?

A Must have been about a thousand men.

Q Who was in charge of the transport?

MR. BERNSTEIN: If it please the court, I object to any questions concerning this transport of SS and lager police, who were, as we know from former testimony, all Germans, and had nothing to do with prisoners in the camp. That is all immaterial.

MR. O'CONNOR: Sir, I realize this, but we went all through this discussion yesterday or the day before. In view of the fact that

(Wonska - redirect)

a witness has testified that he received an order from Skierka in a forest between Flossenberg and Neuenhammer.

MR. BERKOWITZ: If it please the court, that order was at the time of the transport of prisoners and has nothing to do with this evacuation of the camp followed by reoccupation of the camp by the SS.

PRESIDENT: The court sees fit, Mr. O'Connor, to caution you that the amount of the evidence this witness has so far given is repetitious. Now if you can tie in that march which started on the 16th of April with the main issue in this case, particularly referring to No. 46 Skierka, then the court will give you permission to proceed.

MR. O'CONNOR: Sir, I don't know that I can tie it up with the 20th, but it is the testimony of Prosecution witness Kuegner that it happened on the transport. I don't know what the record shows and how much weight you have given Kuegner's testimony and what happened on the 16th.

PRESIDENT: Court will take a short recess.

(Whereupon the court recessed.)

PRESIDENT: Court will come to order. The objection of the assistant prosecutor, Mr. Berkowitz, is sustained.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Moneka, did you take part inthe evacuation march of Flossenburg which commenced on April 20, 1945?

A I didn't participate directly in the evacuation on the 20th. As I said before, I didn't join up until the second day.

Q When did you know that the camp was to be evacuated along with the prisoner evacuation?

A Around 9:30 in the evening of the 19th.

Q From whom did you hear it?

A From Skierka.

Q What did he tell you?

(Moneka - redirect)

A I was in my room. Skierka came up and came in and said that the camp would be evacuated on the next morning. That is, the 20th.

Did he give you that information in the form of an order?

A Yes.

Q Did he tell you from whom he got that information?

A No.

Q What happened on the next day?

A The next day we had to pack up again, and food for the march was made ready and then 2nd Lt. Albert came. He was in charge of the battalion.

PRESIDENT: The court does not desire all those details. Just answer the questions of the defense counsel.

Q What did Lt. Albert do?

A He saw to it that the guards were divided up for the marching blocks.

Q What time did the first marching block leave the camp?

A It could have been toward ten o'clock in the forenoon.

Q Who was in charge of that first block, or column?

A I can't tell you that. I wasn't present when they left.

Q Weren't you in the camp at that time?

A Yes, but I wasn't on the square where they fall in.

Q Can you tell the court what instructions or orders were given to the guards present prior to the evacuation?

MR. BERKOWITZ: That is objected to; the witness has just stated he was not present at the time the order was given.

MR. O'BRIEN: I submit to the court the witness did not say that; he said he was not present when they marched out, but he could have been present when the orders were given.

MR. BERKOWITZ: I object, unless proper ground work be laid for it.

PRESIDENT: Objection over ruled.

A I don't know of any orders that were given, because I wasn't there.

(Wenska - redirect)

Q Well, where did you first join the column on the march?

A That was on the second day, toward one o'clock in the afternoon. I can' tell you the name of the place any more. When I joined up the marching blocks were lying in the grass,resting.

Q Which column did you join?

A I drove away in front of the first column then.

Q Who was in charge of that column?

A When I got to the column I met Skierka andhe told me that he had to show the column the route.

Q Where was he marching, with respect to the front or the rear of the column?

A I was marching myself two or three kilometers in front of the column and I often saw Skierka up front. He would come up rather often on his bicycle.

Q Who was the highest ranking officer that you saw with that column?

A That was Hoegel.

Q Who was the next highest ranking officer you saw with that column?

A Baumgartner.

Q Who was the next highest ranking officer you saw with that column?

A It was the doctor. I don't know whether he was a first lieutenant or a lieutenant colonel.

Q Did you know a man in Flossenburg by the name of Wilhelm Bayer?

A Yes.

Q What column was he with?

A I can't tell you which column he was with; I only saw him once when he was sitting on a wagon.

Q What column was he with then?

A I believe that must have been with the first column.

Q Approximately where was the column when you joined it for the first time?

A They could have been 25 or 30 kilometers away from the camp.

(Wonska - redirect)

Q Well, where was it in relation to Neuenhammer, in kilometers?

A Neuenhammer is only three kilometers away from Flossenburg.

Q I will repeat my question. Where was the column when you first joined it with respect to the village of Neuenhammer? Estimate that in kilometers.

A About 25 kilometers.

What time did you join it?

A On the second day toward one o'clock in the afternoon. On the second day after they had left.

When you got there you say you saw Skierka. What was he doing when you saw him?

A I met him in the street and I happened to be a witness of the fact that Koegel and Baumgartner drove by at that moment and gave the order that the prisoners should make a break on the right hand side of the road because there was water there. And I can remember that he said, Skierka, let the men take a break here on the right side of the street, because they have water there.

Q When you reported to Skierka on the first day, what instructions or orders did he give you?

A He didn't give me any orders. I didn't have anything to do with exterior duties.

Q Can you tell the court whether or not he issued orders or instructions to the guards?

A I can't tell you.

Q When Koegel gave this order for the break, what time of day was that?

A That could have been toward four o'clock in the afternoon.

Q Did the column make the break then?

A Yes.

Q What was Skierka doing during that break, if you know?

(Menska - redirect)

A He spent the night in a farmer's house which was in the neighborhood there.

What time did you leave the next day to resume the march?

A That could have been about three o'clock in the morning.

During the course of that next day's march how many times did you have occasion to see Skierka?

A Four or five times.

Will you explain to the court what you saw him doing on those occasions?

A He drove up front with his bicycle ahead of me often and it seemed that he wanted to orient himself in regard to the route that the march would take.

What instructions or orders did he give you on that day?

A He didn't give me any orders directly.

Q Do you know whether he issued any at all?

A I don't know of any.

Q How far did you go on that third day?

A We marched until about two o'clock in the afternoon.

Q What happened then?

A We made a break again then.

Q By whose order?

A I don't know.

Q Can you tell the court where Koegel was on that day?

A He often drove back and forth along the column in his automobile. Baumgartner was also in the car.

Q Do you know whether or not Koegel issued any orders on that day?

A I couldn't say anything like that because I was too far away.

Will you please tell the court what you saw along the course of this march, with respect to bodies lying along the road?

A Bodies?

Q Did you see any?

(Wenska - redirect)

Take 676. 12-12-mdh-22.

A Yes.

Q Where did you see them?

A I can't describe the place exactly.

Q Approximately how many did you see?

A About forty. I saw about forty.

Q Were the bodies that you saw the bodies of prisoners or SS men, or civilians, or what?

A It was my opinion that they were prisoners.

Q Can you tell the court what instructions or orders were given to your column with respect to what was to be done with prisoners who couldn't keep up the march?

A No.

Q Will you tell the court what column of prisoners these bodies were from?

A No.

Q Will you tell the court whether or not they were from your column?

A No.

Q During the course of the entire march how was Skierka armed?

A When I first saw him on the second day he had a pistol with him.

Q What did he have after that?

A He carried his pistol.

Q What did you see him doing with the pistol?

A I didn't see him doing anything with it.

Q What was the destination of this transport?

A It was supposed to be Dachau.

Q How far did you get?

A I believe that they reached the place called Unter Traubling, if my memory serves me right.

Q What happened there?

(Wenska - redirect)

A We were surprised there by American tank units and everything was helter skelter.

Did you see any bodies of prisoners lying on the roadside at that time?

A No.

Q Can you describe to the court the general nature of the relations between Koegel and Skierka?

A They were not the best.

Q What do you mean by that?

A Koegel was very brusque and severe and nobody could do anything to please him.

Q Do you know of any incident involving Skierka and Koegel which you can describe to the court?

A Yes. One morning Koegel pulled Skierka out of bed and he raised the devil with him, and when Burger came as commandant of the guard battalion Skierka said, "Thank God, I don't have to have any more contact with Koegel."

Q Now you said that Koegel was the highest ranking officer with the column when you joined it on the second day. How long did he stay with that column?

A I saw him up to the very last minute when the tanks arrived.

Q How long did Baumgartner stay?

A He was always together with Koegel.

Q And how long did this next highest ranking officer stay with the column, whose name you do not remember?

A I don't know anything more. I can't remember. I didn't see that.

MR. O'CONNOR: That is all.

PRESIDENT: Cross examination, Mr. Hall?

MR. HALL: The name of Mr. Monska was inadvertently left off the list as a witness for Keiling, and I request a very short direct examination in

(Monska - redirect)

the interest of the accused Keiling.

QUESTIONS BY MR. HALL:

Wonska, did you know a man by the name of Keiling?

A Keiling; yes.

Look in the dock and identify him, if you can?

A Here he is, No. 22.

Q Let the record show that he correctly identified the accused Keiling, No. 22. While at Flossenburg did you know a man by the name of Failing?

A Yes.

Q Spell it, please.

A Failing.

Q And what was Failing's job in Flossenburg?

A Failing was leader of the protective custody department in Flossenburg up to around the middle of October 1944.

Q And for how long was he leader of that department?

A Until October 1944.

Q From what period of time?

A I can't tell you exactly. He could have been there about a year.

Q Please compare Failing and Keiling, with aference to the wearing of eye glasses?

MR. BEVERITT: That is objected to as immaterial.

PRESIDENT: Objection over ruled.

A Keiling wore glasses and Failing did not wear any.

Q Please compare Failing and Keiling from the standpoint of general physical build?

MR. BEVERITT: Object to that as immaterial.

MR. HALL: If the court please, I should like to reply to that, if I may. If it is deemed necessary.

PRESIDENT: You are planning on connecting it up to the main

(Wonska - redirect)

issue, aren't you, Mr. Hall?

MR. HALL: The witness against the accused Keiling testified a certain shooting took place in the space of one minute with the back of Keiling towards the witness. The testimony has shown that the man by the name of Hailing, as protective custody leader, was frequently in view of the prisoner. I therefore take it up on that basis.

MR. BIRKOWITZ: That is a misquotation of the testimony. The testimony was that the prisoner saw Keiling on the march and then he saw as Keiling went so and so. The fact that there was a man of a similar name in Flossenburg in 1944 indicates no relevancy to me, nor should it to the court, for the purpose of showing mistaken identify.

PRESIDENT: Objection over ruled.

(The question was thereupon repeated by the Interpreter.)

A Hailing had about the same height as Keiling. He was light blonde, somewhat more stocky than Keiling.

Please compare them from the standpoint of the type of uniform worn?

A Looking at them from the back there was scarcely any difference.

Q What was the rank of Hailing?

A Hailing was a captain in the SS.

Q And the rank of Keiling?

A Warrant officer.

What distinguishing characteristics could be observed in connection with the uniform between these two ranks?

A The soldiers merely had stars on their shoulders and a leather band on their cap, whereas the officers had brown epaulets on their shoulders and a silver cord on their caps.

Compare them from the standpoint of the type of arms worn?

MR. BIRKOWITZ: If it please the court, I renew my objection.

(Menska - redirect)

There is no evidence that Hailing was on this march. You might compare him with every man that was on the transport. they all were uniforms, they all looked the same from the back, possibly, but it is a waste of time. It is immaterial and it is irrelevant; merely attempting to draw a red herring across the testimony.

PRESIDENT: Mr. Berkowitz; The matter of identification in this particular case is of great importance, according to the evidence before the court. The objection is ever ruled.

A Both of them carried pistols.

MR. HALL: That is all.

PRESIDENT: Cross examination?

MR. BERKOWITZ: No cross.

PRESIDENT: Questions by the court? Apparently none. Defense anything further?

MR. HALL: No, sir.

PRESIDENT: The court understands that the defense is finished with this witness?

MR. O'CONNOR: Yes, sir.

PRESIDENT: Mr. Hall?

MR. HALL: Yes, sir.

PRESIDENT: The witness will be excused.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. The court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court adjourned at 1650 hours December 12, 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at .....
in (Address of Court)
(Anschrift des Gerichtes)

on ..... 194 .....
am

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused ..... 194.....
Abschrift dem Angeklagten zugestellt am

.....

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Court Exhibit 09

Pages 8073 - 8140 incl.

Duplicate Copy

FLOSSENBURG

Case No. .....

Prosecutor .....

*Summary
*Intermediate Military Court
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 13 December 194 6

Reporter .....

1015 - 1700 hours

Members of Court:

WITNESSES:

JOHANNES HERGERT

FREDERICK OVERMOOR

ROLFCAR F FILDER

BRUNO SIERRA

Accused FRIEDRICH FLOSS, ET AL.

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning 194
- Fine
  - Amount .....
  - To be paid before 194
    or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH BEDER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

13 December 1946 1015 - 1700 hours Pages 8073 - 8140, incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
JOHANNES HERGERT	8073	8076			
FREDERICK OVERBECK	8077	8080			
WOLFGANG PINDER			8081 8100 8112 8117 8123 8124	8087 8105 8118	 8113 8118 8123
BRUNO SKIENKA	8125				

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-68	Book, extracts from "Penal Law of German Armed Forces"	8082	

CAMP DACHAU, GERMANY

13 December 1946

MORNING SESSION

(Whereupon the court reconvened at 1015 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Oswalt, Losch, Lipinski, Ginschel, Mussfeldt, Wurst, Eisbusch, Friedrich Becker, Dr. Schmitz and Skierka. The last named three are in conference with counsel and the other named accused are ill. The interests of those named accused who are absent are being taken care of by counsel.

PRESIDENT: Colonel Denson, the court desires you to make an announcement.

PROSECUTION: Let the record show that the delay in convening this court prior to a quarter after ten was due to a conference held between the prosecution and defense in an effort to expedite the remainder of this trial.

PRESIDENT: Defense. Dr. Wacker.

DR. WACKER: The defense calls as its next witness, Johannes Hergert in behalf of the accused Buddensieg.

JOHANNES HERGERT, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Johannes Hergert.

Q Please spell Hergert.

A H-e-r-g-e-r-t.

Q How old are you?

A 34 years old.

Q Are you married?

A Yes.

Q What is your civilian occupation?

A I am a merchant; an employee.

Q Where do you live?

A In Plauen, Vogtland.

Q Where are you at the present time?

A Dachau.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: You are advised that if at any time you should be asked any questions which tend to incriminate you, you have a right to ask the court to refrain from answering that particular question. Do you understand?

WITNESS HERGERT: Yes.

QUESTIONS BY DR. WACKER:

Q Where were you on the 1st of January, 1942?

A In Flossenburg.

Q Were you in the concentration camp of Flossenburg?

A Yes.

Q In what capacity?

A As clerk for the first company.

Q Are you a member of the SS?

A Yes.

Q What rank did you hold on the 1st of January, 1942?

A PFC.

Q What tasks did you have as clerk of the first company?

A To take care of personnel matters, to take care of furlough papers and other matters that came up in the orderly room.

Q Who was the leader of the guard unit at that time?

A 1st Lieutenant Kuenstler was the leader of the guard unit.

Q Who was the company leader of the first company?

A Captain Buddensieg was company commander of the first company.

Q Would you recognize Buddensieg if you would see him today?

A Yes.

Q Please look around and see if you can recognize him and point him out.

A Second row, the third from the right.

DR. WACKER: Let the record show that the witness has identified No. 7 as being the accused Buddensieg.

Q You just stated that it was your concern to make out furlough papers, please tell us who signed those furlough papers.

A The furlough papers were signed by the camp commandant.

Q Were all furlough papers signed by the camp commandant?

A No.

Q Which ones were not?

A Short furloughs.

Q Who signed these?

A The company commander signed short furloughs.

Q What do you mean by a short furlough?

A A short furlough is from Saturday after duty hours until Monday when duty again starts.

Q What kind of furloughs were the others?

A A home furlough, harvest furlough and special furloughs.

Q Do you know anything about furloughs being granted to guards who

had shot at prisoners if they had attempted to escape?

A Yes.

Q Who granted such furloughs?

A The camp commander.

Q Who signed the furlough papers in such a case?

A The camp commander.

Q How was the orderly room informed about the fact that such a furlough had been granted?

A The guard reported to the court officer after he had been interrogated and told him that he had received a furlough from the camp commandant.

Q Was that sufficient to prepare a furlough paper in the orderly room?

A The company was informed from headquarters by telephone.

Q What did the orderly room do?

A Because of this telephone call, the furlough papers were prepared.

Q What happened then?

A After preparation of the furlough paper, it was taken to the camp commandant to be signed.

Q What did Buddensieg have to do with such a furlough?

A Nothing. Nothing at all.

DR. WACKER: No further questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q What was your final rank before you left Flossenburg?

A Technical Sergeant.

Q When did you acquire that rank?

A The 1st of February, 1944.

Q Did you remain as company clerk while you were a technical sergeant?

A No, clerk in headquarters.

Q When did you first go as a clerk in the headquarters?

A April, 1942.

Q So you did not remain in the guard company clerk's office except from January, 1942 until April, 1942, is that correct?

A Until April, 1942.

Q You don't know what procedure took place in the company clerk's office of which Buddensieg was company commander after April, 1942 except that what you heard, is that correct?

A No, I don't know.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

DR. WACKER: Nothing further.

PRESIDENT: Questions by members of the court? Apparently not. The court understands that the defense is finished with this witness.

DR. WACKER: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: The defense calls as its next witness, Overbeck, also in behalf of Buddensieg.

FREDERICK OVERBECK, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q What is your full name?

A Frederick Overbeck.

Q Please spell Overbeck.

A O-v-e-r-b-e-c-k.

Q How old are you?

A 35.

Q Are you married?

A Yes.

Q What is your civilian occupation?

A Bookkeeper.

Q Where do you live?

A Dorsten Westphalia.

Q Where are you at the present time?

A In cage 3.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: You are advised that if at any time you should be asked a question which might tend to incriminate you, you have a right to ask the court to refrain from answering that particular question. Do you fully understand?

WITNESS OVERBECK: Yes.

QUESTIONS BY DR. WACKER:

Q Where were you on the 1st of January, 1942?

A In Flossenburg?

Q In what capacity were you in Flossenburg?

A Clerk in the first company.

Q Are you a member of the SS?

A Yes.

Q What rank?

A Corporal.

Q Who was the commander of the guard unit at that time?

A The camp commander, Major Kuenstler.

Q Who was company commander of the first company?

A Captain Buddensieg.

Q Would you recognize Buddensieg if you would see him today?

A Yes.

Q If you see him, please point him out.

A (Indicated).

DR. WACKER: Let the record show that the witness has identified No. 7 as being the accused Buddensieg.

Q What job did you have the 1st of January, 1942?

A To work on personnel matters and furloughs and other written matters.

Q Who signed the furlough papers?

A The camp commander.

Q Is it known to you that if a guard shot at a prisoner when the prisoner tried to escape, he was granted a furlough?

A Yes.

Q How was such a furlough granted?

A The guard had to report to the camp commander and he then reported back to the orderly room and stated that he had received a special furlough from the camp commander.

Q What was done in the clerk's office?

A The furlough paper was written out as soon as word had been received from headquarters.

Q What happened to the furlough paper?

A After it had been written, it was taken to headquarters to be signed.

Q What did Buddensieg have to do with filling out such furlough papers?

A Nothing.

Q Is it known to you whether such furloughs were granted after

Kuenstler was not in command?

PROSECUTION: Objected to on the grounds that it is leading and suggestive.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q How long did Kuenstler stay in Flossenburg?

A Until September, 1942.

Q Who succeeded Kuenstler?

A Major Zill.

Q Did he also grant such furloughs?

A That is not known to me.

Q Who succeeded Zill?

A The last commandant was Lt. Colonel Koegel.

Q Were such furloughs granted under Koegel?

A No.

DR. WACKER: No further questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q How long did you remain as a clerk in the first company?

A Until July, 1942.

Q You don't know what took place then in the first company with respect to furlough after July, 1942 except what you heard, is that correct?

A No, I don't know anything.

Q What was your highest rank that you achieved while at Flossenburg?

A Sergeant.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

DR. WACKER: Nothing further.

PRESIDENT: Questions by members of the court? Apparently not. The court understands that the defense is finished with this witness. The witness will be excused.

(Whereupon the witness was excused and withdrew.)

DR. WACKER: The defense calls as its next witness, Dr. Pinder on behalf of the accused No. 6, Bruach.

PRESIDENT: Doctor Pinder, just take the witness stand. The court cautions you that you are still under oath. Proceed.

WOLFGANG PINDER, recalled as a witness by the defense, having been previously duly sworn, resumed the stand and testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Please state your full name?

A Doctor Heinrich Wolfgang Wilhelm Pinder.

Q Are you the same Doctor Pinder who has testified here before as a witness?

A Yes.

Q What punishment was dealt out during the war for looting?

MR. BERKOWITZ: I object to this line of questioning, unless the witness is qualified as an expert.

PRESIDENT: Objection overruled. This witness has been on the stand before. The court feels he is qualified.

WITNESS PINDER: The regular punishment was the death sentence.

MR. BERKOWITZ: I would like to have a moment to confer with Mr. Deason.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place at 10^{45} hours.)

(Whereupon the court reconvened in place at 1055 hours.)

PRESIDENT: Court will come to order.

MR. MC KAY: The defense wishes to introduce paragraph 155 of the penal code of the German military, paragraph 1 of the regulations about those who harmed the people, and paragraph 134 about the emergency court.

PROSECUTION: May it please the court, for cross examining this man, I would like to have an opportunity to have an English extract of the provisions that are being offered in evidence. In other words, I have no objection to going ahead with the direct examination of this man, but I would like to reserve the right to cross examine him after I have had an English translation of these provisions in this book which are being sought to be introduced at this time.

PRESIDENT: You are within your rights with a request of that nature. Your request is granted.

MR. MC KAY: Said paragraphs being contained in the penal code of the Wehrmacht, the copy we have in our possession belongs to a German lawyer who is not here and we request that we be given the opportunity to extract these paragraphs now, and have the book marked for identification so it can be used for reference at this time.

PRESIDENT: The court approves the matter. Proceed.

MR. MC KAY: Reporter, please mark this book for identification which includes the paragraphs we have reference to.

(The document referred to was marked Defense Exhibit D-68 for identification.)

MR. MC KAY: The defense reserves 68A which will be the English translations of these paragraphs.

QUESTIONS BY DR. WACKER:

Q Doctor Pinder, I have a book which I hand you and ask you what it is?

A That is a textbook edited in 1941 under the heading "Penal Law of the German Armed Forces."

Q Whereunon do you base your statement that a death sentence was given for looting?

A If the perpetrators are under military law, paragraph 129 is valid for them. If they are not under military law, paragraph 1 under the heading "Those Who Harmed the People" is valid.

Q Doctor Pinder, prisoners are being transferred from one concentration camp to another concentration camp under SS guard. Are these prisoners then subject to military law?

PROSECUTION: I object to that, may it please the court, as calling for a conclusion on the part of this witness which would invade the province of the court, and on the further ground that it is leading and suggestive.

PRESIDENT: Objection sustained on the second ground.

QUESTIONS BY DR. WACKER:

Q If prisoners are being transferred from one concentration camp to another concentration camp under SS guard, to which law are they subjected?

PROSECUTION: I object to that, may it please the court, on the ground that it calls for a conclusion of this witness and invades the province of this court.

PRESIDENT: The court feels that this particular witness with his background has indicated in his previous appearance before the court that he is qualified to answer that question to the best of his ability. Objection overruled.

WITNESS PINDER: I would quote paragraph 155 to answer this question. The heading of this paragraph is "Followers". It reads: "During the war which has broken out against the German Reich, all persons who are in any kind of duty or contract with the Wehrmacht or stayed with the armed

forces or followed them, are subjected to this penal code and laws, mainly, the laws of war insofar as the supreme commanders of the branches of the Wehrmacht or the chief of the supreme commander of the Wehrmacht ordered this for their territories."

Q Do prisoners who are being transferred from one concentration camp to another concentration camp follow the Wehrmacht—

PROSECUTION: —I object to that as being leading and suggestive.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q What is the result of your reference to paragraph 155?

A I would assume that during such a march and when a condition of war exists, prisoners of a concentration camp stay with the troops; so that they may be subjected to the military law since a condition of war exists, although, ordinarily, they would not be subjected to military law. It depends whether the orders have been issued which are contained in the last sentence. To my knowledge, a territory of war had been declared there during the month of April or shortly before the American troops arrived.

Q What territories of Germany were declared as being territories of war?

A That depends on the time to which this question refers.

Q Was there any period of time during which the whole German Reich had been declared as a territory of war?

PROSECUTION: Objected to as leading and suggestive.

PRESIDENT: Objection sustained.

QUESTIONS BY DR. WACKER:

Q Do you know when the territories of the German Reich were declared as being territories of war?

A I can only make an explanation to that according to my knowledge, without having any documents to back it up. If I remember it right, the Reich's territory was declared as being war territory after the Allied troops had crossed the Rhine at Remagen.

Q What is a Standgericht?

A A Standgericht is a substitute for a regular, ordinary military court in cases of emergency.

Q Does a Standgericht have any basis of law?

A During the war, paragraph 13A of the special penal code of war was valid. The heading is "Decree about Military Penal Procedures". During the war and during special action this was valid. War penal decree, KSTVO of the 17th of August, 1938. Paragraph 13A follows paragraph 13, the emergency condition of courts and before that, it starts out from paragraph 12, the ordinary conditions of courts. Paragraph 13A, the emergency conditions of courts is valid whenever the competent court officer cannot be reached. Paragraph 13A reads: "Standgericht", as follows: "1. The nearest commander of a regiment or a commander of troops who has the same power to deal out disciplinary action can take over the authority of a court officer if (1) the sentence cannot be postponed for forceful military reasons; (2) no court officer can be contacted at that time; (3) the witnesses or evidence is present. 2. No. 1 is not valid for deeds for which paragraph 14 of the Reich's court-martial is competent. 3. The foregoing has to be reported immediately to the competent court officer according to paragraph 12. He can take over the procedure at any time."

Q Did any other laws exist in April of 1945 concerning Standgericht outside of paragraph 13A?

A Yes.

Q Which ones?

A There was a decree which was an easier procedure in Standgericht.

Q Is this law contained in this book?

A No.

Q Why not?

A This decree was issued much later, if I remember it right. I should say it was February, 1945.

Q What do you know about this law?

A The former procedures were made much easier and the right was granted to the Gauleiters in their capacity as Reich's commissioners to form a Standgericht. I don't know whether that was in this decree or not. It might have been in another law which might have existed at that time already. I should like to doubt whether the interpretation for "gericht" is correct, the meaning of it is the commander who had charge of the court.

Q Assume the following case, Doctor Pinder. Prisoners are being transported from one concentration camp to another concentration camp. During this march of prisoners, an airraid occurs. In this connection some prisoners escape and loot. Because of this, a Standgericht convenes under the presidency of a major of a railroad construction battalion, a captain and a first lieutenant, and it sentences a prisoner to death because of the pilfering. The president of the Standgericht, a major that is to say, gives orders to the first lieutenant after the death sentence has been pronounced to execute this death sentence immediately. This first lieutenant transmits the orders of execution to non-commissioned officers. These non-commissioned officers carry out the execution by shooting. Now comes my question. Is this execution legal according to German law?

A A Standgericht could be called by the commander of an individual military unit. He had the same power to hand out disciplinary punishment as a regimental commander. According to 13A, already, that has been established, paragraph 13A of the special penal code of war, so I don't even have to examine the easier procedure of the laws of war. If a death sentence had been pronounced in that connection, the execution of this death sentence could be ordered. So far as I know, not only the president of the Standgericht but also the Standgericht when all three members of the Standgericht

concurred, could order the execution.

Q Dr. Pinder, please answer my question if possible. Was such an execution as that ordered, legal according to German law or was it not?

A I don't know of any reason to doubt that having heard the procedure as has been described.

Q Please answer this question, if possible, with yes or no. Was such an execution legal?

A It was legal if so ordered by the Standgericht.

Q Doctor Pinder, what was the sense and purpose of a Standgericht?

A It was the purpose of the Standgericht to maintain order where it was not possible for a regular military court to convene.

DR. SAUKEL: No further questions.

PRESIDENT: Cross examination.

PROSECUTION: May it please the court, I asked before for leave to reserve the right to cross examine this witness but in view of the testimony that has been given by this witness, I may be able to go ahead and thereby save time without having the English translations of those paragraphs that have been introduced.

PRESIDENT: Proceed.

RE CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q I understand you to state that these prisoners while going from one concentration camp to another concentration camp were subject to military law, is that correct?

A According to paragraph 155 of the penal code of the military.

Q Will you read that paragraph again to the court, please?

A "During a war which has broken out against the German Reich, all persons who do duty with the Wehrmacht or are also on a contract basis with it, or stay with it, or follow it, are subjected to the penal decrees of this

law, mainly to the laws of war insofar as the supreme commanders of the branches of the Wehrmacht, or the chief of the supreme command of the Wehrmacht designates so for their territory over which the command has power.

Q In that connection then, these prisoners then would have the same status as prisoners of war, would they not?

A Prisoners of war would be followers under the same circumstances.

Q Well, these prisoners then had the same status as prisoners of war for that reason, is that correct?

A Special protective laws are valid for prisoners of war according to the Geneva and Hague conventions.

Q Just answer my question, will you, please. We are not talking about anything else. We will get to that later.

A So far as the competency and the procedure of military law is concerned, it would be the same in this case. That is the question ruled by paragraph 155.

Q Then I understand your answer to be that these prisoners while under the conditions that have been outlined to you, marching from one concentration camp to another concentration camp, would have the same status of prisoners of war.

PROSECUTION: May it please the court, before the Doctor makes an objection I would like to have the court instruct him not to give the answer to the witness.

PRESIDENT: The court has no knowledge of what the Doctor is going to say, but that is a matter of course, Doctor.

DR. HAGEN: I object to this question because the witness has taken his position to his question in the previous question. It would be in the least, repetition.

PRESIDENT: Objection overruled. Proceed, Prosecution.

PROSECUTION: Answer the question, please, Doctor.

WITNESS PINDER: Would you repeat the question, please?

PROSECUTION: Reporter, repeat the previous question, please.

(Whereupon the last question was read by the reporter.)

WITNESS PINDER: I state that that is correct insofar as there are not any other protective laws as outlined by international law which would be competent in cases of prisoners of war.

QUESTIONS BY PROSECUTION:

Q You can answer the question, whether or not they have a status of prisoners of war, or not.

A I answered the question as I can understand it in connection with the competency of the laws of war.

Q I am asking you this with respect to the provisions of paragraph 155, Doctor.

A Yes.

Q Under the provisions of paragraph 155, they would have the same status as prisoners of war, is that correct?

A The answer would just have to be the other way around. The answer would have to be prisoners of war are followers in the same meaning as concentration camp prisoners would be, insofar as I can answer this question without having any further backing up.

Q All right. These people who do duty with the Army and if they are captured they are given the same rights as prisoners of war, are they not?

A Yes, the protection of their lives is being guaranteed by the penal code.

Q Those who are on contract duty with the Army, if they are captured, by the enemy, they are accorded the rights of a prisoner of war, are they not?

A I think that is how it was supposed to be.

Q Doctor, that is the way it was, is that not right?

A It is rather embarrassing for me to answer this question since I myself went into captivity the 13th or 18th of May, and my treatment has not been according to the international laws and I was not only a follower but a member of the units of the troops.

Q Doctor, I am not interested in your experiences, I am interested in your knowledge of the facts, based upon your education. You are supposed to be an expert, are you not?

A I can't answer this question right away, as far as this point is concerned then, I am not an expert.

Q Let me see how much more you know about this. Those persons who served with the enemy army who were taken by the Germans, those that were working on a contract basis with the enemy, were they accorded the rights of prisoners of war?

A I don't know how that was handled. I never had anything to do with prisoners of war, nor with followers or members of the followers of the enemy army, but I don't have a doubt that they received the protection of the international law.

Q Doctor, what is it that you are supposed to be an expert on?

A At the present time, I am no expert at all because since May of last year, I have been a prisoner here without connection with my profession.

Q And your profession is that of what?

A I am a lawyer.

Q Do you have any knowledge of international law?

A Not so far as my scientific work was concerned and not so far as my capacity as a troop judge was concerned; outside of that, it is part of the studies we have to go through in the universities.

Q As troop judge, is it not a fact that you had to be familiar with the laws of war?

A Yes.

Q Is it not a fact that you had to be familiar with the laws concerning administration of military justice?

A Of course.

Q As a part of the laws of war, you became familiar with the status of persons who were taken in the field, did you not?

A Of course, but I never had anything to do with it, practically.

Q Did you ever have anything to do with paragraph 153?

A Yes.

Q You have had occasions to interpret that?

A Yes.

Q And apply it?

A Yes, of course.

Q Then you do know what the status of what these various individuals was with respect to whether or not they were accorded the rights of prisoners of war, is that not true?

A - I answered the last question as it was propounded to me. The last question did not state anything about prisoners being taken from an enemy army and I was not concerned with such questions. Outside of that, I do not know what Colonel Denson is driving at and I have to be very careful because it is possible that my memory is cheating me. I do not want to say more than I can account for.

Q I don't want you to say anything more than you can account for, but I ask you whether or not you can account for the status of prisoners who were taken from enemy armies by the German army.

A As I said, I don't know how it was handled, but to my knowledge, they had the same protection as members of the troops according to the Geneva and Hague conventions.

Q I am not talking about the protection, I am talking about the status, doctor.

A They are prisoners of war.

Q They are prisoners of war. So that after all your answers to the question whether these persons who were transported from one concentration camp to another concentration camp were prisoners of war, that is your answer now, is that correct?

DR. WACKER: I have to object to this because the question of material law and the competency of the penal code of the military are being mixed up.

PRESIDENT: Objection overruled.

WITNESS PINDER: Such persons would be prisoners of war according to the question of Colonel Denson. If an enemy army, such as the Americans were, if they would capture concentration camp prisoners they would be prisoners of war, but to the German troops, they are not prisoners of war, they are followers.

Q Are followers considered as prisoners of war when captured by opposing forces?

A According to my memory, yes. This question would be competent in the case that the enemy troops, such as the Americans, would capture these concentration camp prisoners.

Q What status did these prisoners have with respect to the German Government?

A In the eyes of the German Government, I believe I described that in my testimony in September, that the lives of these prisoners were

protected by several laws which governed the conduct of guards, that is, in the case that these guards should lay hands on the lives of these prisoners.

Q Will you answer my question, for the benefit of my memory which has failed. I don't remember what your testimony was last September.

A Whoever killed a prisoner on his own initiative without having received orders to do so such as being contained in the death sentence orders or death sentences having been pronounced, and I believe in this connection it was the Reich Security Head Office from where these orders came, he is subject to being charged with murder and is punishable and can be taken action against, according to paragraph 211, and all the following paragraphs. The heading of this is "Crime and Violation Against the Life". It starts out with paragraph 211.

Q I am not interested in the punishment against people who commit offenses against prisoners, I am interested in the status of these prisoners. Were these prisoners prisoners of war?

A For the German troops who accompanied them, no.

Q Were they just the same as prisoners who were normally committed to penitentiaries in Germany?

A There were definite rules of treatment governing the prisoners in concentration camps.

Q I am not asking about the rules of treatment, I am asking about the status. You understand status, Doctor; tell us whether the status of those prisoners in concentration camps was the same as the prisoners in penitentiaries in Germany.

A They were the same with the exception that whenever they were accompanied by troops, they were subjected to paragraph 155 of the penal code of the military, while civilian prisoners who were being accompanied by civil servant guards were not subjected to the military code but to civil law.

(Pinder-Cross)

Q All these prisoners were working under the economic and administration offices at Oranienburg, were they not?

A I believe that the economic and administrative head office was competent. At any rate, they all were under one of the sections of the office of the Reich's Fuehrer of the SS.

Q Is it not a fact that this provision that you have read from paragraph 155 concerning persons who stay with the army are those who follow it, those who concern themselves with trades, men who follow it and make sale of wares and things of that kind, is that not true?

A Of course that is true, but under paragraph 155 there are several groups included in the followers and they are named, that has been specified, they are people who are doing duty with the Wehrmacht or are under contract with the Wehrmacht, or stay with it for any other reason, or follow it. A concentration camp prisoner cannot be taken as a person who follows, but one who stays with it.

Q Those who escape, are they also considered to be persons who stay with it?

A Up to the point when the escape succeeded, yes.

Q After they escaped, they are no longer with it, is that correct?

A If the escape had succeeded, I would say no. Of course, I wouldn't conclude my question that way, in that connection you would have to consider the law as it is spoken.

Q And as it is spoken, it says those who stay with it are subject to military jurisdiction and those not staying with it are not subject to military jurisdiction, is that not correct?

A That I can't say because I was not familiar with that, and I have not had that case and I couldn't say out of my head how it would be.

Q So that your answer then, to the Doctor's question, that this execution was legal, is in doubt, based upon that fact, is that not true?

A No, I could not see from Doctor Wacker's question whether the prisoners escaped successfully.

Q If it would have included the fact that they had successfully escaped, your answer would be different, is that correct?

A I can only repeat that I do not dare to answer this question concludingly with the backing I have.

Q All right. Now paragraph 1¾A sets forth certain conditions there that must be complied with, is that not correct?

A Yes.

Q The first one is that the sentence cannot be postponed, is that correct?

A The sentencing cannot be postponed, that is one of the provisions. Another is that the commander who is in charge of the court, a general as a rule, cannot be reached, at the spot.

Q And the third one, Doctor?

A That the witnesses and evidence are at immediate disposal.

Q That provision, 1¾A, was set up to take care of circumstances wherein there was a willful disobedience of an officer's command in the field, is that not true?

A It can be competent for that too, but not alone for that.

Q Was that not the purpose whereby that provision, 1¾A, was inserted in the manual?

A No.

Q When was paragraph 1¾A first put in the manual?

A I would have to look that up. The Special Penal Code of War was edited in 1938.

Q Do you know the history of that paragraph, at all, doctor?

A I knew it, but not exact enough so that I would be able to analyze it in connection with other paragraphs.

Q What is paragraph 14 of the Reich's court-martial?

A Paragraph 14, and that has not been translated any too good before, is under the heading of "Decree over the Military Penal Procedure in War and During Special Action". That is the same decree in which paragraph 13A is included.

Q In other words, paragraph 14 of the Reich's court-martial includes paragraph 13A that you have discussed here this morning, is that correct?

A The misunderstanding has not been clarified.

Q Tell us, please, doctor, just what is paragraph 14 in the court-martial?

A The misunderstanding came up in paragraph 2 of paragraph 13A. I should like to read that again "paragraph 2 is not competent for crimes for which according to paragraph 14, the Reich's court is competent.

Q What is paragraph 14?

A Paragraph 14 reads "The Special Status of the Reich's Court of War. Paragraph 14. The Special Status of the Reich's War Court, No. 1: The Reich's War Court is competent in the following cases: Firstly, high treason according to paragraph 80 to 84 of the penal code. Secondly, treason according to paragraphs 89 until 92 of the penal code. Thirdly, the treason in war according to paragraphs 57, 58, 59 and 60 according to military code. Fourthly, attack against the Fuehrer and Reich's chancellor according to paragraph 94, section 1 of the penal code. No. 5, the crime under paragraph 5, No. 1 of the decree of the Reich's President, for the protection of people and state, of the 28th of February, 1933. Reich's decree circular 183 and so forth down to 10. If I am requested to, I shall read the rest. You can thereby see that this paragraph was only used in severe cases of crimes.

PRESIDENT: Court will adjourn until 1:30 this afternoon.

(Whereupon the court recessed at 1200 hours.)

Ta 678
12/13
ps-1
Floss

Camp Dachau, Germany

13 December 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Berkowitz, who is absent on business of the prosecution; all the personnel of the defense are present; the accused are present, with the exception of Neye, Oswalt, Losch and Lipinski, who are ill, and whose interests are being taken care of by counsel.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Proceed with the cross examination, Colonel Denson.

DR. WOLFGANG PINDER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

RECROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION:

Q Doctor, the provisions under Paragraph 13-A, marked 1, 2 and 3, are conditions upon which the authority of the court may be exercised, is that not true?

A Yes, those are the points under which a trial of a Standgericht could be carried out before the conditions were eased in spring, 1945.

Q You don't know what the decree was that eased those

conditions, so you are not in a position to testify what that is, is that not true?

A I can't give it in detail now. According to my memory, it read, "The decree about the eased procedure in a Standgericht." If the Reichs law circular would be put at my disposal, it would be easy for me to find that decree in a hurry.

Q At the present time, though, you have no accurate information as to the contents of that decree, is that not correct?

A No.

Q Under the provisions of Paragraph 13-A, it must be shown that no court officer was available, and that the sentencing was of the utmost military necessity, and, third, that the witnesses and the proof were then available, is that not correct?

A Yes, that is correct, but again I emphasize that the expression "court officer" might be an error. The Gerichtherr is the man who is in charge of the court under these conditions. The SS police court 25 in Munich would have been under the SS General Doctor Martin, who would be the man in charge of the court in this case. I was misunderstood; this court would not have been in Munich, but in Nuernberg.

Q So that in answering Dr. Wacker's question as to the legality of the sentence of this court, you would have to be shown that these three conditions listed under Paragraph 13-A would have to be complied with before a sentence would be legal under that paragraph, is that not correct?

A As far as the Standgericht is to be based on Paragraph 13-A, yes.

Q Certainly, Doctor, the theft by a woman prisoner of some food to appease her hunger could not be considered of the utmost military necessity, is that not true, in her sentencing?

DR. WACKER: I object to this question, because it has not been propounded precisely enough. This question can only be answered if all details have been clearly expressed.

PROSECUTION: I would like to reply to that, may it please the court.

PRESIDENT: Objection overruled. The court feels that this witness, with his previous experience, is perfectly capable of answering the question. If there are any qualifications necessary, he can get them in his answer. Proceed.

QUESTIONS BY PROSECUTION:

THE WITNESS: I should like to have the circumstances described under which the Standgericht saw fit to convene.

Q Will you answer the question I have given you, based on the facts I have given you?

A Colonel, you gave the facts to me that female prisoners stole food to satisfy their hunger.

Q That is correct.

A May I ask another question to clear this up?

Q Go ahead.

A Where were these thefts carried out? Were they the first ones of its kind? Were they carried out by individuals or in groups?

Q Assume that they were carried out by individuals, and assume further that they were the first of its kind. What is your answer, based on these assumptions?

A In this case, the decision of the Standgericht, as well as the officer who called the Standgericht, would be hard to explain, and it would be hard to explain why urgent military reasons called for such a court, such procedure.

Q Do you know of any other case where such a court was convened

to try inmates from foreign countries who had been confined in concentration camps?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect examination.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q When can an escape of a prisoner be considered successful, so that he would not fall under Paragraph 155, according to your opinion?

A That all depends on the individual case. The thing is that the leader of the military unit has to ascertain his custody, until you can talk about any successful escape.

Q What is the case when the escaped prisoner is being returned and placed before the court?

A In this case, the prisoner again stays with the unit, and it all depends on whether his capacity as prisoner of a concentration camp has lasted during that time. I would say it has.

Q How would you say the provisions of a Standgericht and its urgency if a prisoner transport had already committed looting and if there were more lootings to be expected?

PROSECUTION: I object to that, may it please the court, on the ground that there is no evidence to sustain any such hypothesis.

PRESIDENT: Objection overruled.

THE WITNESS: May I have the question again?

(Whereupon the question was read by the reporter as follows:
"Q How would you say the provisions of a Standgericht and its urgency if a prisoner transport had already committed looting and if there were more lootings to be expected?")

THE WITNESS: Was that the question as Dr. Wacker put it?

PRESIDENT: The court will take a short recess if the defense counsel desires it.

DR. WACKER: I ask for a short recess.

PRESIDENT: Court will take a short recess in place at the request of the defense counsel.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

DR. WACKER: I should like to withdraw the question and rephrase it.

QUESTIONS BY DR. WACKER:

Q Dr. Pinder, would you consider the urgency for a Standgericht under the following circumstances: lootings occur at a transport of prisoners; after the first looting, it is being pointed out to the prisoners that if any more lootings should occur, they would be subjected to the laws of war; during a later air attack, lootings again occur; these lootings are being carried out in a territory which had been declared war territory and the enemy forces are not too far distant. Are, under such circumstances, the provisions for the urgency of a Standgericht there?

A I should answer that in the affirmative, provided that there were not enough guards there. It all depends on the number of guards that were present at the time, and if those guards could hinder the prisoners from any further lootings, and under these circumstances, it seems that there were not enough guards present.

Q Who decides about these questions?

A The officer in charge, the one who calls the Standgericht together, and then the Standgericht itself has to consider that question.

Q Does the Standgericht also decide over its own competency?

A Yes.

Q If a Standgericht answers its competency in the affirmative; if the Standgericht also confirms the urgency for a sentence; if the

Standgericht passes a death sentence; and if the officer in charge of the Standgericht orders the execution of the death sentence; which possibilities exist for a non-commissioned officer to prevent the carrying out of this sentence?

A None, if he does not want to subject himself to punishment.

DR. WACKER: No further questions.

MR. McKAY: I have several questions on behalf of the accused, No. 5, by reason of this man's cross examination. It is in the nature of direct examination.

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Dr. Pinder, you referred to a decree which eased the requirements for setting up an emergency court. Do you recall when that decree was published?

PROSECUTION: I object to that, may it please the court, on the ground that it is repetitious. He has already answered that question on behalf of Dr. Wacker.

PRESIDENT: Read the question, reporter.

(Whereupon the question was read by the reporter as follows:
"Q Dr. Pinder, you referred to a decree which eased the requirements for setting up an emergency court. Do you recall when that decree was published?

PRESIDENT: Objection sustained. Any question about it for the record, Mr. McKay?

MR. McKAY: Would you read his previous answer, Miss Reporter?

(Whereupon the answer was read by the reporter as follows:
"A Yes, those are the points under which a trial of a Standgericht could be carried out before the conditions were eased in spring, 1945.")

QUESTIONS BY MR. McKAY:

Q Dr. Pinder, will you explain what, if any, connection this decree had with the matter of plundering in war territory?

A I don't know whether plundering was mentioned in that connection, or as a special case in that connection, but the Standgericht could convene in any case of crime.

Q Doctor, was the city of Nuernberg in your judicial district in the period beginning in February, 1945, until April of 1945?

A No. In January, I left SS police court 25 in Nuernberg.

Q Do you have any knowledge as to whether the area of Nuernberg, especially the railroad yards, was ever declared war territory?

A I cannot state it about this territory in question at that time. I wasn't there.

Q Doctor, during the time that you were there, were any orders of that nature put out?

A I don't recall any order which was issued especially for this territory.

Q Referring again to this decree which eased the requirements for an emergency court, will you explain what, if any, connection that had with persons who were not actually members of the military service?

A The gauleiters, in their capacities as Reich Commissioners for the defense, could convene a Standgericht against any civilians.

Q Do you know whether this decree which eased the requirements for the establishment of an emergency court was given publicity to the public as a whole?

A I cannot say that with certainty. I believe it was published in the Reichslaw circular, but you could read public warnings against plunderings every place. The boards read, "Those who plunder will be shot to death."

Q In your capacity as a lawyer, would it have been possible to bring prisoners who were working on a detail from a concentration camp before an emergency court established by a gauleiter for plundering?

PROSECUTION: That calls for a conclusion, may it please the court, on the part of this witness, and invades the province of this court in that it is not a matter which comes within the realm of expert testimony. The feasibility of bring prisoners before an emergency court convened by a gauleiter does not entail any legal problems at all, but matters of transportation and convenience.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. McKAY:

Q In your previous testimony, you stated that prisoners of a concentration camp were governed by civil law rather than by military law, is that correct?

A Yes.

Q And in view of that, would prisoners in a concentration camp, or who were connected with a concentration camp, who were charged with committing offenses, be tried before civil authorities or military authorities?

A Normally, they would have to be summoned before the civil authorities, but in this case, they were covered by the military law as has been provided for in Paragraph 155. For that, a regular military court would have been competent.

Q You are referring to the case of the transport prisoners?

A Yes.

Q What would have been the situation in the case of merely a detail of prisoners being taken from a concentration camp daily to work in a certain place such as a railroad yard?

A Such a case would not be as exceptional a case, as the transport, under conditions of the approach of the enemy, as has been described before. That was part of the normal procedure of a concentration camp.

Q In referring to the posters or publicity given to this decree with regard to shooting for plundering, to whom did that apply?

A Everybody who would have liked to plunder.

MR. MCKAY: That is all.

PRESIDENT: Recross examination.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Doctor, when you refer to the fact that these prisoners were told that they were subject to the laws of war, do you have reference to the different treaties of international law, such as the Hague Convention and the Geneva Convention?

A Would you please repeat the question?

(Whereupon the question was read by the reporter, as follows:
"Q Doctor, when you refer to the fact that these prisoners were told that they were subject to the laws of war, do you have reference to the different treaties of international law, such as the Hague Convention and the Geneva Convention?")

A I don't think that the prisoners who were addressed in that manner could take it that way, and I don't think it was meant in that sense. Here it was a warning against plundering, and when they talk about the laws of war, they meant to say that the hardship of the laws of war would apply to them; that is to say, the severe punishment.

Q When you again use the term , "laws of war," do you have reference to those provisions which are embodied in the Hague or Geneva Conventions, or any other treaties of international law?

A As far as they can be applied, yes, but I do not believe that that is the sense of Paragraph 155, as far as it is applicable to the described case. I don't believe that any prisoners, any concentration camp prisoners, were prisoners of war.

Q When you say you don't believe that, you just don't know, do you, Doctor?

A I don't know it, but you speak about female concentration camp prisoners.

Q Yes.

A The only possibility that exists is as was pointed out this morning by a question by the Colonel, that these female prisoners could have been the followers of an enemy army. I can hardly imagine another case at the present time.

Q There were women in the German Army, were there not?

A Yes.

Q They could have been prisoners of war, could they not?

A With another army, yes. Not with ours.

Q When these people were taken out of Poland, when they were taken out of Russia, and when they were taken out of France and Belgium, they could very well have been prisoners of war, could they not?

A That case is possible, but as I see the case, there is the possibility that the protective laws of the Hague and Geneva Conventions could have been terminated, and the imprisonment could have been changed over into some other kind of custody.

Q You belong to that school, then, Doctor, is it a fact, where one prisoner of war can be taken and his status deprived of by the conquering power and made a slave worker, is that correct?

A I do not only belong to the opposite school, but I am convinced of the opposite things, although I should not like to explain my own experiences in this connection.

Q Doctor, you stated in reply to one of Dr. Wacker's questions that under the circumstances, that you were satisfied that there were not enough guards present at the time of this alleged looting. Is it not a fact that you know nothing about those facts except what has been testified to and stated to you in hypothetical questions in this court?

A I do not think that I have expressed myself in that manner. I could have only expressed myself in this manner, that it all depended on the circumstances, mainly upon the fact whether the amount of guards were sufficient for the number of captive persons, to be able to answer the question in the clear manner, whether the trial was urgent or not.

Q You know nothing of the military situation that existed at the time of this alleged looting in that particular area, is that correct?

A No, but it would all depend on the fact also how the other security forces, such as the police, for instance, could handle such cases of mass lootings.

Q And you know also, Doctor, absolutely nothing concerning the nature of the unit of which the major who appointed this court commanded, is that not true?

MR. McKAY: If the court please, I think this line of questioning is completely unnecessary. It has already been stated on a hypothetical basis. Obviously, he wasn't there.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q You don't know, Doctor, whether or not this major had authority to exercise the powers given to a commander under Paragraph 155, do you?

MR. McKAY: I object to that question, also. I think the witness has already answered the question by saying, in his opinion, the court would have jurisdiction and it was the judge of its own competence, his statement being based on the hypothetical set of facts which have been presented before the court.

PRESIDENT: The court is under the impression that your question is based upon a hypothetical situation, is it not?

PROSECUTION: It is in this respect. He understands English, so I cannot hide my point at all. I might as well disclose it.

(PINDER-Recross)

THE WITNESS: I don't understand English very well.

PROSECUTION: The point is this, sir. He has testified that in his opinion this court had jurisdiction. Under the provisions of Paragraph 155, it says, as I recall, that the man — not 155, that is 13A — it says that the man must exercise the authority of a regimental commander or the equivalent. There is no evidence before this court, and I am trying to exclude by these questions the fact that there was any evidence that would show that he had the authority to come within the provisions of Paragraph 13-A.

PRESIDENT: The court is still under the impression, Mr. Prosecutor, that your question is based upon a hypothetical situation.

PROSECUTION: Sir, it is, but as I say, I am going from one thing to another. This particular question is, but I don't mind revealing what I am getting at.

PRESIDENT: The court is under the impression that this question has already been answered, based on the hypothetical question.

PROSECUTION: Read the question, please.

(Whereupon the reporter read the question, as follows:
"Q You don't know, Doctor, whether or not this major had authority to exercise the powers given to a commander under Paragraph 155, do you?")

PROSECUTION: If he says "yes," then I will go ahead and ask him did he know the tactical situation, whether it was an attached unit or whether it was a unit that was indigenous in itself.

PRESIDENT: Was there an objection?

MR. McKAI: I objected.

PRESIDENT: Objection overruled. Proceed.

QUESTIONS BY PROSECUTION:

Q Answer the question.

A I was misunderstood. I did not state that an officer had to have the status of a regimental commander to convene such a court.

I said that he had to have the power to deal out disciplinary punishment. He had to have the power of a regimental commander to deal our disciplinary punishment, or else must have been the commander of a separate independent unit. Such an independent unit was not larger than a regiment in the German Wehrmacht.

PROSECUTION: Will you read, please, Paragraph 13A-1, Interpreter?

INTERPRETER: "The nearest commander of a regiment or a commander of troops who has the same power of disciplinary punishment can be in charge of a court if ——"

PROSECUTION: Is that the same way you read that this morning?

INTERPRETER: I think so.

PROSECUTION: My memory may have failed me, sir.

QUESTIONS BY PROSECUTION:

Q Let me ask you this, doctor. Do you tell this court that the commanding officer of a railway battalion exercises the same disciplinary powers that a commanding officer of a regiment would exercise?

A That all depends upon the circumstances of his command, whether he is on his own, what his missions are, and so forth.

Q That is exactly what I am getting at. Tell the court what the circumstances must be before he can exercise the same disciplinary power.

A It must be given to him.

Q By whom?

A By his military superior.

Q What else?

A That is sufficient.

Q You also stated on redirect examination that the emergency court determines its own jurisdiction, is that correct?

A Yes.

Q Is that finding by the court conclusive?

A Yes. As a rule, the approval is required, but as is the case many times, that cannot be done with a Standgericht, so that it is conclusive.

Q What section requires the approval, Doctor?

A I don't understand the question. What do you mean by "section"?

Q You said that there were circumstances where the approval must be had concerning its jurisdiction. I want to know what law is it that provides for such approval.

A I was thinking of the Standgerichts who have been called together by a gauleiter. In this case, the sentences have to be placed before the gauleiter for his approval, against civilian cases.

Q I am not talking about that. I am talking about a proceeding under Paragraph 13-A, Doctor.

A If I may say it again, the officer in charge of the Standgericht has taken the place of the officer who is in charge of a regular court, so that the sentence will be placed before him. I remind you again that, according to my memory, I stated this morning that if the three members of the Standgericht concurred, the sentence and the approval could be handled by them.

Q Is that stated anywhere in that book?

A No. That is the content of the decree which I should have here, as far as I can remember.

Q You mean that this is that February decree you were talking about?

A According to my memory, February; at least, spring, 1945.

Q Doctor, then the court is the sole judge of whether or not it had the power to try the individual that was brought before it, is that correct?

A In emergency cases, that was unavoidable, because a Standgericht only convened if a regular court was not available, and

if the regular court president could not be reached, the regular officer in charge of a court could not be reached.

Q So that Buddensieg, Skierka and Berger could get together and hold one of these courts any time they wanted to, is that correct, so long as they decided that they themselves had jurisdiction?

A If they were allowed to do that, yes, but I don't believe that any one of them had the disciplinary power of a regimental commander.

Q Burger was a major?

A The major was a battalion commander. He had to be given disciplinary powers outside of that.

Q This man had up and shot these women to death. He was just a major.

MR. McKAY: The question is objected to as being argumentative, nothing based on the record that he was just a major. He was shown to be connected with the railway battalion.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q This man that had that, Doctor, was nothing more than a major in charge of a railway battalion.

A That does not exclude that, I did not disbelieve that fact, having the disciplinary powers of a commander of a separate unit.

Q Does every commander of a railway battalion have such powers?

A That I can't say.

Q You mean, then, that you don't know — you won't say — that the commanding officer of every railway battalion does not have such powers?

MR. McKAY: The question is objected to as being argumentative in form, in that it says, "you don't know or you won't tell."

PRESIDENT: Objection overruled.

QUESTIONS BY PROSECUTION:

THE WITNESS: This disciplinary power has to be given. It

could have been given in this case, but it didn't have to be. I think, because of this Paragraph 13-A, you are thrashing empty straw, because since the decree of easing this paragraph had been issued, this paragraph did not have to be the basis of that any more.

Q That is your assumption, Doctor, but the fact remains, it is a fact that you don't know what was in that decree of February, 1945, and this court doesn't know what was in that decree.

A I should like, then, to make it available to me so I can interpret the contents to the court.

Q Have you got it?

A I am some sort of prisoner here. I only have that which they left me.

Q Do you know where you can get it?

A Probably in the Amtsgericht in Dachau.

Q Then I assume the defense counsel will produce it to this court.

PROSECUTION: No further questions.

THE WITNESS: I should like to suggest one more thing in connection with that.

PRESIDENT: The court will give him a chance later on.

MR. HALL: I have a question I would like to ask.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q You were asked a question a moment ago, which was, in substance, that Major Burger, here, or anybody else could go out and convene a court whenever they wanted to, and try a case. Do you recall that question?

A I recall that question.

Q I should like to ask you a question which, possibly, you may not be able to answer, by virtue of your recent confinement, but we shall see. Do you know, or do you realize, that by virtue of the recent

Nuernberg trial decisions, that nations, whenever they want to, can go out and appoint courts and give them jurisdiction to try the case whenever they want to, and that that jurisdiction is final within the court itself?

A I have the written reasons or clauses of the Nuernberg trials in my barracks, and I read that there. I took a main interest in the London statutes after I had been questioned intensively about that by Colonel Denson. Before that, my interest in the London statute was not too intensive, because I was of the opinion that it had more or less been decreed from one side against Germany, but since Mr. Jackson said in his speech that the London statute would apply to all nations, that is to say, to the Allied Nations also, I have the hope that such proof will be visible in the future.

PRESIDENT: Any further question on the part of the defense?

DR. WACKER: Nothing further. Thank you.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Doctor, could a captain, commanding a separate unit at a separate station, convene an emergency court?

A He could do that, according to Paragraph 13-A, if he had the disciplinary power of an independent troop commander. In the German Army, that is the technical term, independent troop commander.

Q Yes, but I understood you to state, Doctor, that he would have to have the corresponding disciplinary power of a regimental commander in a case of that nature?

A Yes, to satisfy Paragraph 13-A, yes.

Q But you don't intend to imply that a captain commanding a separate unit would have the same disciplinary powers as a regimental commander, do you, considering all types of cases?

A We have to strictly separate the rank from the held position.

We had many various cases, during the war, where positions were filled by ranks who would, under normal circumstances, never have been there. Toward the end of the war, that was so frequent in the German Army that you could almost take it as a rule.

Q We don't want to get into a dissertation of that, Doctor, but the court wants more or less of a definite answer in regard to it. Do you feel, or was it possible for a captain commanding a unit at a separate location to convene an emergency court?

A Yes.

Q Then you consider that the disciplinary powers of a captain, under those considerations, would be the same as a regimental commander?

A In this case, it depended upon the position. If he had the disciplinary powers, then his rank could be that of captain, although he was commander of an independent unit.

Q Let us take the position of a major commanding a railway battalion. Would he have the same disciplinary powers all the way through as a regimental commander?

A Not normally.

Q In other words, this particular battalion commander could not appoint all classes of courts the same as a regimental commander could, is that correct?

A Not normally.

Q Then, in that case, that particular battalion commander commanding a railway battalion would not have the same disciplinary powers as a regimental commander?

A Not normally. It had to be given to him, but that is possible.

Q Then, in deciding a case as to whether or not a major commanding a railway battalion had jurisdiction to appoint, we will say, an emergency court, you would have to know whether or not, in the first place, he had

an order authorising him to do that, is that the case?

A Such authorisation was not necessary, but the authorisation was necessary that he had the disciplinary power of a regimental commander. That was necessary for Paragraph 13-A.

Q You stated that, under normal conditions, the hypothetical question put to you by the court, that is, referring to a major commanding a railway battalion, that under normal conditions, he would not have the same disciplinary authority as a regimental commander?

A Under normal circumstances, no, but this provision also had been eased, according to my memory, in the eased provisions for an emergency court.

Q Now, Doctor, was there an appeal from these emergency courts, or, rather, was an appeal possible?

A No, there was not even an appeal possible, if someone had been sentenced by a normal troop court.

Q In other words, the emergency courts were just exactly the same as the people's courts, is that right, after a certain specified year?

A As the people's courts?

Q That is right.

A No.

Q Your answer is no? We will not go into that. Was it necessary to have a review of a case handled by an emergency court?

A It was not necessary.

Q In other words, the findings could be put into execution without any review whatsoever?

A There were no measures of law, even at a normal field court, that a new trial could be requested. The only thing that could be done was to take counteraction against the sentence found by this field court,

to keep the officer in charge of the court from approving the sentence.

Q Then an appeal was possible, under certain circumstances, is that right?

A Not an appeal as a measure of law, but a confronting was possible, and in that case, a man who had been trained as a lawyer and acknowledged as judge had to give a diagnosis of law and take his position to the case.

Q All right. Doctor, you have mentioned that it was necessary for the members of the court to concur in this matter of carrying an execution of a finding into effect at once. Is that correct?

A As far as I remember, yes.

Q Did that have to be a unanimous decision?

A A unanimous decision was sufficient to replace the decision made by the officer in charge of a Standgericht. It was completely sufficient if the three members of a Standgericht concurred to have the sentence carried out.

Q What do you mean by "concur", unanimous concurrence, or two-thirds, or what, Doctor?

A All of them.

Q Let us take a hypothetical case now. If there were three members of an emergency court, and this particular court comes to a finding of guilty and a sentence of death, and the President of that court orders the man executed immediately, is that a legal order or an illegal order? There is no evidence of a majority concurrence or unanimous concurrence.

PRESIDENT: Read my question.

(Whereupon the question was read by the reporter as follows: "Q Let us take a hypothetical case now. If there were three members of an emergency court, and this particular court comes to a finding of guilty and a sentence of death, and the President of that court orders the man executed immediately, is that a legal order or an illegal order? There is no evidence of a majority concurrence or unanimous concurrence.")

PRESIDENT: Doctor, the court wants to call your attention to the latter part of that particular question, where the President of the court orders the execution of that man immediately.

LAW MEMBER: I object to the question unless clarified. Is he going to answer all of the question, or part of the question?

PRESIDENT: For the benefit of one of the members of the court, I will re-state the question.

QUESTIONS BY THE PRESIDENT:

Q We will take a hypothetical situation, where there are three members of an emergency court. This particular emergency court has come to a findings and a sentence, and the sentence is that of death. Then the president of this particular court, on his own, separately, orders the execution of that particular individual. Is that a legal order or an illegal order, where there is no evidence of any concurrence, either of majority or unanimous concurrence on the part of the other members of the court?

A The president of the court, upon his own, cannot order, according to Paragraph 13-A, the execution. Only the Standgericht or all members of the Standgericht can order it, or also the man in charge of the Standgericht, who is not the president of the court. That is not only according to Paragraph 13-A, but in general, so far as I can remember.

PRESIDENT: Any further questions by members of the court? Redirect examination?

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Could the officer in charge of the Standgericht also have been the president of the Standgericht?

A So far as I remember, yes.

Q Can he order the execution in that case?

A He can give that order, according to the decree pertaining to the Standgericht.

Q Can it be assumed that, normally, the major commander of a railroad battalion would check on these questions?

PROSECUTION: I object to that, may it please the court. It calls for a conclusion of this witness and invades the province of the court. It does not call for any professional opinion and invades the realm of expert testimony.

PRESIDENT: Objection sustained.

DR. WACKER: No further questions.

PRESIDENT: Any further questions on the part of any other defense counsel? Apparently not. Recross examination?

PROSECUTION: No further cross examination.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTION BY LAW MEMBER:

Q Doctor, where the court reaches a finding of guilty, and decides upon an execution, who would issue the order for the execution?

A Normally, the president. The one who receives the order, at any rate, could not prove and check whether that was right or wrong.

PRESIDENT: Any further questions by members of the court? Does the court understand the defense is finished with this particular witness?

DR. WACKER: Yes.

PROSECUTION: Sir, I would like to ask one more question.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Is there any provision in that book, Doctor, that says who

shall issue the orders of execution?

A That is included in Paragraph 13-A. It is under the provisions of the special penal war decree, and it says, under Paragraph 13-A, that the officer in charge of the Standgericht exercises the power of the officer in charge of the court, and the execution of a sentence is being ordered in the normal war court by the officer in charge of the court.

Q My question to you, Doctor, is whether or not this book that you hold in your hand has any provision in it which authorises the president of an emergency court to carry out the sentence of that court?

A May I read through it again briefly? The practice, at any rate, was that the judge of a normal troop court would transmit the order of the officer in charge of the court for the execution of the sentence to the unit which had to carry out that execution.

Q Doctor, this is an emergency court, isn't it? This is not a normal troop court.

A But it was even like that with a normal troop court.

Q I am asking about this extraordinary court.

A Then I should like to read once more.

PRESIDENT: The court will recess until 3:30.

(Whereupon the court recessed at 1500 hours.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Berkowitz, and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense are present; and all the accused are present with the exception of Oswalt, Losch, and Lipinski, who are ill and whose interests are being taken care of by counsel.

Doctor, you are reminded that you are still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

WOLFGANG PINDER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Doctor, did you find the provision which authorized the president of an emergency court to order the execution of the sentence that it had handed down?

A That is shown in Paragraph 102, Section 2, and in Paragraph 101, Section 3, of "The Decrees of the Laws of War." Paragraph 102, Section 3, reads: "The decision about the execution is determined by the commander who approves the sentence, as stated in Paragraph 87, Section 2, or an officer in charge of a court who has been authorized to do so by him." Instead of this officer in charge of the court, you have the officer in charge of the standgericht, the emergency court. Paragraph 101, Section 3, reads: "The punishment will be carried out by an official of the vital statistics office and will be carried out according to an authorized copy of the sentence and the form of approval." According to this, even

a subordinate who does merely clerical work as a member of a court can order the execution if he transmits the authorized copy of the sentence as well as the form of approval to the unit which is to carry out the sentence.

Q And that provision contemplates that there shall be an approval, does it not, Doctor?

A Yes, for the normal procedure.

Q Well, Doctor what is it with respect to this extraordinary procedure of the emergency court? That is what we are interested in.

A There is no special provision made here from what I can see.

PROSECUTION: No further questions.

A (cont'd) But it is implicated in Paragraph 101, Section 3, that the official who is in charge of the documents can order the executions as being a member of the standgericht.

Q Now, these sections that you have read to the court, are they statutes or are they merely regulations?

A I don't understand the difference; the decree of trials during war is a law.

Q Issued by whom?

A This law bears the signature: Berlin, 17 August 1938, the Fuehrer and Reichschancellor Adolph Hitler, the Chief of the Supreme Command of the Wehrmacht Keitel.

Q And there is no section in that book which states specifically - not by implication, but specifically - that the decrees of an emergency court may be carried into effect upon the order of the president of the court?

A No.

PROSECUTION: No further questions.

PRESIDENT: Questions by the court?

(Pinder-Recross)

WITNESS: Going through that law I found something else here that refers to decisions, that decisions cannot be touched.

PRESIDENT: Just a minute, Doctor. Are you referring now to emergency courts or what?

WITNESS: No, that even refers to the normal courts-martial.

PRESIDENT: Well, are you referring to an emergency court?

WITNESS: That is valid even more so for an emergency court.

PRESIDENT: All right, finish your answer.

WITNESS: Paragraph 76 reads that decisions cannot be fought: "The decisions of a procedure of a war court cannot be touched with measures of law." Paragraph 77 reads: "The review of sentences." Section 1 reads: "The sentences are subject to review which will lead to approval or to disapproval." I then also found the disciplinary measures taken in the Army, as was edited the eighteenth of May, 1926, and Paragraph 10 reads: "If nothing else has been directed, the disciplinary power is not bound by the rank but by position, and will automatically be taken over by the deputy second in command if he is an officer; in any other case it will go over to the next higher disciplinary superior." And furthermore, it says in Paragraph 14: "The commander of a regiment or of an independent unit can deal out the following disciplinary punishment, according to Paragraphs 12 and 13." Here punishment is limited to the punishment which can be dealt out by a company, squadron, or battery commander, or by a commander who is not commander of an independent unit.

PRESIDENT: I don't think it will be necessary to go into any more detail about that. The court understands the prosecution is finished.

PROSECUTION: Yes, I finished a long time ago, sir.

PRESIDENT: The witness is still answering your last question, Colonel.

PROSECUTION: That's it, I am through.

PRESIDENT: Questions by the court? Apparently none. Redirect.

DOCTOR WACKER: The witness just uttered softly that he found one more important matter.

PRESIDENT: Just a minute. If it is to the point, go ahead.

WITNESS: Yes. There is a footnote here pertaining to Paragraph 14; it reads as follows: "Independent units are engineer battalions, signal corps, motorcycle, motorized, and medical units; furthermore, those units which have been declared as independent by order.

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q I have one last question. Doctor, did these quoted paragraphs, as you have cited them to us, change anything in the fact that the legality existed as far as the order was concerned given by the president for the execution of the sentence, as has been assumed here?

A No.

PRESIDENT: Read that last question again please.

(Whereupon the last question was read by the reporter.)

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Doctor, in answer to a question put by a member of the court indicating a hypothetical situation, you answered in that particular case that the actions of the president were illegal. Is that correct?

A So far as I can remember, it was a different question. The question was, so far as I can remember, whether it was legal for the president to give such an order if he did not act in concurrence with the members of the standgericht and did not have the power given to him by the officer in charge of the court.

Q Just a minute. Doctor, the court understands that you now contend that a review of a finding and a sentence of an emergency court was

authorized and perfectly possible?

A Not a review.

Q An approval?

A Pardon me, but those are two different things. It could be checked, yes, but nothing could be done so far as legal measures were concerned.

Q Well, the court understands from the various paragraphs you read that this approval was necessary, approval of the findings and sentence of an emergency court.

A Yes.

Q And this approval was by some higher authority. Is that right?

A So far as the standgericht, the emergency court, was concerned it came from the officer in charge of the emergency court; but so far as I can remember, this could be replaced by the unanimous agreement of the members of the court.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q And could the officer in charge who had called the standgericht, the emergency court, be a member of the emergency court, itself?

A I believe this question was asked.

PRESIDENT: That's right, the question is repetitious. Check the record if necessary, Doctor Wacker, if you want anything.

DOCTOR WACKER: It would be very simple if the witness would answer.

PROSECUTION: I would like to hear it if it please the court. I think there was something like that asked, but I have forgotten the answer.

PRESIDENT: In order to expedite the matter and avoid checking the record, the court will allow the witness to answer.

A So far as I can remember, yes; but I can't answer that with certainty. I should again suggest to have access to the decree.

PRESIDENT: The court understands that the defense has finished with this witness.

DOCTOR WACKER: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

MR. O'CONNOR: May it please the court, the defense calls the accused Skierka to the stand, who will testify in his own behalf.

PRESIDENT: Skierka, the court understands that you desire to take the stand and testify in your own behalf. Is that correct?

ACC SKIERKA: Yes.

PRESIDENT: All right. Proceed, Mr. O'Connor.

BRUNO SKIERKA, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q State your full name, Skierka.

A- Bruno Skierka.

Q How old are you?

A Forty-nine years and nine months.

PRESIDENT: What was that?

(Whereupon the answer was repeated by the interpreter.)

A Are you married?

A Yes.

Q Have you any children?

A No.

Q You were a member of the Waffen SS, were you not?

A Yes.

Q When did you join it?

A In July, 1938, I was drafted into the reserve of the country police and then was transferred to the Waffen SS in June, 1940.

Q What was your civilian occupation, to go back a minute?

A I was employed with the German Red Cross.

Q And what was your home city?

A Danzig.

Q Continue with your record with the Waffen SS.

A In January, 1941 I was released from the Waffen SS because I was too old then. I again took up my civilian occupation and in October, 1942, I again was drafted into the Waffen SS, to the SS main headquarters.

Q Where?

A In Berlin.

Q Did you volunteer for duty in the Waffen SS?

A No.

Q What happened after that?

A Because I was only capable of doing garrison duty, I was used with the railroad construction and trench construction in Russia and in the Ukraine. Here I participated in the retreats from January of 1943 until July 1944. In July 1944 I received orders to report to the personnel head section in Berlin; after I had completed my old duties, I arrived in Berlin about the middle of August. At the personnel head section I was officially informed that I had been transferred to the economic and administrative office in Oranienburg. Unofficially I was told that I was supposed to go into the administrative service in the personnel

section, but that I would have to do duty for six months first in a concentration camp.

Q Do you know the reason why you were supposed to do that?

A A first lieutenant informed me unofficially in the presence of Major Erdmann.

Q What was that reason?

A The censors had caught a letter of mine which I had sent home; I had made remarks about a divisional commander and I had added to that that if we had such leaders that we would lose the war.

Q When did you arrive in Flossenburg?

A The middle of September I arrived in Flossenburg.

Q What was your rank at that time?

A I was second lieutenant.

Q What was the highest rank you attained while you were in the SS?

A Second lieutenant.

Q- When you reported for duty in Flossenburg, who was the commandant of the camp?

A Lieutenant Colonel Koegel.

Q What duties were assigned to you in Flossenburg upon your arrival there?

A I was placed in charge of a company; I had to carry out the usual normal duties of a company commander, and outside of that I had to take care of all the clerical work of the battalion.

Q Now, you stated that Koegel was commandant of the camp at the time of your arrival. Did he remain in that position during all the time that you were there?

A During all of that time he remained camp commander.

Q Will you briefly describe to the court the nature or character of your association or relations with the commandant, Koegel?

A If I talk about that and if I should go into details, that would go too far.

Q Well, tell it briefly.

PRESIDENT: Make it very brief.

A The main thing, Keogel accused me of, that the guards were talking to the prisoners and that prisoners received various things from the guards. Since that time he had me checked by several members of the company.

Q Mr. Skierka, you took part in the evacuation of Camp Flossenburg, did you not?

A Yes.

Q When did you first learn that the camp was to be evacuated?

A The fifteenth of April 1945.

Q How did you learn of it?

A I was called to headquarters later in the evening, to the adjutant's office; the adjutant was present; so was Second Lieutenant Albert and later on the camp commander got there; and there I found out that the camp was to be evacuated.

Q What was told you at that time?

A That the guard battalion, the enclosure camp police, would depart and join the Division Nibelungem.

Q What happened after that?

A The next day during the course of the morning the camp police, as well as the guard battalion, departed; near Neuenhammer, approximately eight kilometers from the camp of Flossenburg, the commander ordered the stop.

Q Then what happened?

A We stayed there during the evening; in the meantime several members of the camp police had removed themselves from the unit and had not followed orders by the camp commander to return; thereafter the camp

commander, Koegel, issued orders that any superior was to shoot down any man who was not obedient to orders given. The camp policemen, who were of course all former inmates referred that to themselves.

Q Will you please explain to the court any orders or instructions that you may have issued on that occasion.

A That day I gave no orders at all.

Q At that time did you know the prosecution witnesses, Adolf Kuefner and Gautsch?

A Yes.

Q Will you tell the court where they were at that time.

A No, I did not see them that day, but I assume that they were there during that march that day because everybody who was a member of the SS or camp police was present.

Q What happened after you left the forest?

A At night we marched back to Flossenburg.

Q Well, what happened after you returned to Flossenburg and prior to the evacuation of the prisoners on the twentieth?

A A combat unit by the name of Trommer had marched into Flossenburg in the meantime; one hundred members of the camp police were transferred to this combat unit the seventeenth of April; there they were completely equipped and received equipment for duty at the front.

Q Now, please tell the court at this time whether those 100 members that were sworn into a combat unit were drafted into that unit or if they were volunteers.

A They were transferred. Kuefner was one of these hundred. The next day, the eighteenth, all the members of this camp police had to take their oath to the Fuehrer; they were sworn in by Colonel Trommer.

Q What about Gautsch?

A Gautsch was also sworn in that day.

Q Do you know the nature of the oath they took?

A It was the oath every soldier had to take.

Q What instructions or orders were issued prior to the evacuation of the camp on the twentieth?

A The evening of the nineteenth - it must have been after 8 o'clock - it could have been between 8 and 8:30 - I was called for a conference into the leader's home around 8:30. The camp commander and his adjutant showed up and he gave me orders to get a map from his office which he had left there.

Q When you say the leader, whom do you mean?

A This conference took place in the mess hall of the leader's home.

Q Well, by leader what do you mean? Do you mean Koegel?

A No, that was the officers' mess.

Q All right, go ahead.

A When I returned with the map the conference had commenced, and at that time they spoke about the transport of the sick prisoners. This conference was headed mainly by the camp commander Koegel, the two doctors, Captain Kiersammer, and the adjutant. Since the transport of the sick prisoners was not possible, it was determined that the sick prisoners should be left back in the camp and that a sign would be posted outside of the camp which would read: "Attention, Danger of Epidemics." Subsequently the camp commander spoke with Captain Kiersammer about the food for the transport, as well as the distribution of vehicles to the individual columns. I then received orders from Lieutenant Albert to inform the companies that the camp would be evacuated the next day.

Q Now, just a minute. Did you ever learn what transpired at that meeting during your absence?

A Lieutenant Albert explained some things to me later on. The camp commander had received a TWX with the orders to evacuate the camp and not to leave anyone back--

MR. O'CONNOR: What is a TWX?

INTERPRETER: A teletype message.

PROSECUTION: May it please the court, can we have a translation of the last thing he said.

A (cont'd) -- not even the sick prisoners.

Q Well, do you know from whom that teletype was received?

A No, but I heard that it came from Berlin.

Q What else happened during your absence?

A I couldn't find out anything else.

Q All right, what did you do after the meeting?

A After the meeting we went downstairs again and Lieutenant Albert and I went to the company orderly room and here Lieutenant Albert gave further instructions for the evacuation.

Q Please tell the court whether or not you received any personal orders at that time as to what your duties were to be on the march?

A After I returned from the first conference Koegel told me, "Skierka, you will show the way to the first column and designate the places of rest in case I am not present."

Q Well, what happened the next day prior to the actual time you marched out of the camp?

A The men prepared themselves for the departure.

Q Well, what orders were given at that time?

A I didn't hear any orders.

Q At approximately what time did your column leave the camp?

A I was not present when the first column marched off.

Q Well, what time did you leave?

A I left the camp at approximately 11 o'clock in the morning. When I had found out that the first column had already left, I drove after them by bicycle and caught up with the rear end of the column at the station in Flensburg.

Q Well, did the first column march out of the camp before or after you?

A It left before me so it must have left at approximately 10 o'clock if I consider the route of march.

Q What method of transportation were you using?

A I went by bicycle.

Q And how were you armed?

A I had a submachine-gun and my pistol.

Q When you reached the first column, thereafter where did you march or ride in that column with respect to the front or middle or rear of the column?

A At the point of the column.

Q Which point?

A At the head of the column; at times I was up to five kilometers ahead of the column.

Q How many men were in that column?

A I don't know; I asked one technical sergeant how many men he had in the column, but he could not give me any information about that either; there were approximately 600 in his section.

Q How many sections were there in the column?

A So far as I could see, there were four sections in the column.

Q And approximately how many guards to each section?

A I estimated 40 to 50 guards in each section.

Q Please tell the court who the highest ranking officer was in the first column.

A At the departure it was the camp commander Koegel, Lieutenant Colonel Koegel.

Q And how long did he stay with the column, with the first column?

A He was with the first column every day; he quartered himself with the first column; he took rests with the first column when it took rests and he also gave orders pertaining to departure or rest.

Q Who was the second highest ranking officer with that column?

A First Lieutenant Beyer.

Q Now, explain to the court what authority you had to issue orders in the first column.

A I didn't have to give any orders; I did not have any power of command, either over prisoners or guards; no prisoners had been handed over to me, nor had any guards been subordinated to me.

Q After you left Flossenburg on the twentieth, when did your section make its first break?

A The column marched to the mill in Neuenhammer, as I stated before, approximately eight kilometers distant. I, myself, had driven ahead and I awaited the column there because there was a cross-road. The first approaching column took a rest on the meadow and the rest joined.

Q What time did you arrive at this mill where you took your first break?

A Approximately 1 o'clock noon.

Q How long did you stay there?

A I don't know how long the column stayed there; I had driven ahead in the meantime.

Q Can you tell the court where Koegel was during this break?

A I only got to face Koegel in the evening again.

Q You mean you don't know?

A I don't know where he stayed.

Q Do you know where Baumgartner was during that period?

A No, I don't know that either.

Q Well, who was it that issued the order to the column to resume the march?

A From this rest place?

Q Yes.

A I don't know that there.

Q Were there any other officers present who could issue the order?

A Whether any others were present at the departure I don't know either because I had driven ahead to scout on the route.

Q Well, Mr. Skierka, you tell the court exactly what you did during that break near Neuenhammer.

A When the column approached, I was standing on the road that leads to Pleystein. During this break I asked Technical Sergeant Klasen who was in charge of the distribution of guards and the checking of guards during this period; he told me that he would take care of the distribution, that he knew all about it.

Q What else did you do during that break?

A Since woods were near, I was asked what should happen in case prisoners would take off.

Q Wait a minute. Who did you ask that of?

PROSECUTION: I object to that, may it please the court. He testified that he was asked that.

MR. O'CONNOR: I misunderstood the answer then. Will you read the answer, reporter?

(Whereupon the last answer was read by the reporter.)

PRESIDENT: Objection sustained.

Q Well, what was your reply?

A I pointed out the existing guard orders and said, "Of course, if prisoners should escape, they should be shot at."

Q Where were you when you issued those instructions?

A I was standing on the road together with some non-commissioned officers.

Q Do you know who any of the non-commissioned officers were who were present?

A No, I know several names but I don't know who that was at that moment.

Q Can you tell the court whether any camp police were present when you gave those instructions?

A Camp police, as well as SS guards, were standing guard around the prisoners.

Q No, I mean were any of them standing around when you issued that order?

A I saw Gautsch near me.

Q Did you see Kuefner?

A I did not see him at all during the whole transport.

Q What other orders, if any, did you issue during that break by the mill?

A No orders; this was not inthe form of an order either; I just pointed out the general guard rules.

Q Do you know of any instructions or orders that were issued to the guards at that time by any other officer?

A No.

Q You stated that you stayed there about an hour. Where did the column go from there?

A I don't know how long the column stayed there, but the column proceeded and marched over Pleystein to a point about 23 kilometers distant from Flossenburg and again took a rest.

Q What was your position with respect to that column during the rest of the march that day?

A I don't understand the question.

Q From the time you left the forest until you made your break for the night where did you march or ride on your bicycle with respect to the front or rear of the column?

A I drove ahead of the column and at the cross-roads or road branches I waited for the column, or else posted an SS man there to show the right way to the column.

Q Now, what was the name of that place that you stopped for the night?

A It was before reaching the village of Saubersrieth.

Q What time did you reach there?

A At approximately 7 o'clock at night.

Q What did you do after you reached that village?

A The rest place was in front of the village; I waited until the column had arrived and then went to the village of Saubersrieth.

Q For what purpose?

A To find quarters. The vehicles of the column had arrived there already. I then conversed with First Lieutenant Beyer and the burgermeister about quarters. I had supper with First Lieutenant Beyer and then went to a barn in which I stayed overnight.

Q Who else stayed there?

A At 9:30 the camp commander, Koegel, appeared with the adjutant, Baumgartner.

Q Did anything happen during the night?

A He told me that he would march with the first column during the night also to be protected from being sighted by planes; he himself returned to the column once more; he then returned and also went to sleep

in the barn, as well as First Lieutenant Baumgartner.

Q What orders did you receive regarding the next day's march?

A Then Lieutenant Colonel Koegel told me that I was supposed to be ready early in the morning since he wanted to march with the column during the night. Camp commander Koegel then sent a man to the resting column and ordered the departure. Again I drove ahead like the previous day when the column came in sight to show the right road at cross-roads or road branches.

Q Mr. Skierka, you recall the testimony of the witness Weber yesterday?

A Yes.

Q You recall that he said there were from 40 to 50 dead bodies along the road on the second day's march. Did you see those bodies?

A I saw bodies to one side of the street; I assumed that these were corpses.

Q Now, approximately at what location did you see those bodies?

A I can't name places; it must have been around noon, 11 or 12 o'clock; after that I didn't see any more.

Q Over how long a stretch of the road were those bodies lying?

A It could have been twelve to fifteen kilometers.

Q Approximately how many did you see?

A It could have been 20 to 30.

Q Did you make any determinations as to who these people were who were lying along the road?

A No.

Q What did you do about the bodies that you saw on the road?

A Nothing.

Q Did you report that fact that you found these bodies to anyone?

A In the evening I reported to Lieutenant Colonel Koegel that I had seen dead bodies and that was at the rest place; he said that he had

seen them also and that he had taken the necessary steps.

Q Can you tell the court from what column those bodies were?

PROSECUTION: I object to that, may it please the court; it calls for a conclusion of this witness; he has already stated that he didn't know, that he had only seen the bodies, that he didn't know whether they were alive or dead, and made no examination of them.

MR. O'CONNOR: The witness has testified that he was riding at the head of the column at the time he saw them.

PRESIDENT: Objection overruled.

A I can only assume that these were from the third column, preceding the first column.

Q Do you know what provisions were made for prisoners who couldn't keep up with the march or became ill on the march?

A I had agreed with Sergeant Weber that he should take SS men to bring up prisoners who had fallen behind.

Q What was to be done with them?

A They were to be brought after the column slowly; if there were any vehicles that opportunity was to be used so that they at any rate would again reach the place of rest.

Q How far did the column get on that second day's march?

A It was approximately 40 kilometers distant from Flossenburg.

Q Do you know the name of the town you got to, or near to?

A It was beyond the town of Winklarn, but I don't know how far behind Winklarn.

Q What time did you arrive there?

A Between 4 and 5 in the afternoon.

Q Where was the commandant of the camp at that time?

A As I arrived on bicycle to go with Sergeant Monska, who had accompanied me on the bicycle that day, at the place of rest that is to say, the camp commander Koegel was standing on the road in his car.

He designated that at this particular spot the first column would take a rest; it was on a meadow to the right of the street near a water.

Q Now, Mr. Skierka, explain to the court any orders or instructions you issued to anyone on the march that day.

A Since no power of command had been given to me, I did not give any orders to anybody that day.

Q How long did you remain near this town that you have mentioned before you resumed the march?

A The morning of the twenty-second at approximately 3 o'clock Lieutenant Colonel Koegel gave orders for the departure of the column.

Q Well, what did you do?

A Just like the previous day, I again drove ahead of the column; I awaited the column at the cross-roads and sometimes had the column pass me and then again drove ahead of it.

Q Did you see any more dead bodies lying along the road on this third day of the march?

A No.

Q What happened during the course of the march on the twenty-second?

A The column marched all day with the exception of the breaks, and after twenty-three or twenty-four kilometers had been made, again took a rest.

Q Where was Koegel during the course of this march on the twenty-second?

A Koegel drove up and down the road on the twenty-first and twenty-second; he was in front of the column and he was at the rear of the column all the time.

Q Please state to the court whether or not Koegel issued any orders on that day other than the breaks and to resume the march.

A I didn't hear any other order.

PRESIDENT: The court will have a special session Saturday morning in order to expedite the trial. The court will adjourn until 9 o'clock tomorrow morning, Saturday.

(Whereupon at 1700 hours the court adjourned until 0900 hours, 14 December 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place .....
Ort

Date .....
Datum

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on ..... 194 .....
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....
(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

Copy of above served on accused ..... 194.....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Count 110

PAGES 8141 - 8252 Incl.

First Duplicate Copy

Case No. FLOSSENBURG 1

~~Summary~~ ~~Intermediate Military Court~~ *General

Place DACHAU, GERMANY

Date 14 - 16 December 1946

~~Members of Court~~

WITNESSES:

ACCUSED BRUNO SKIERKA

ACCUSED ERICH PENZ

Prosecutor

Defence Counsel

Interpreter

Reporter

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

Imprisonment: Term ..... Beginning ..... 194.....

Fine: Amount ..... To be paid before ..... 194..... or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 June 1946

14 - 16 December 1946 Pages 8141 - 8252, Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
ACCUSED BRUNO SKIERKA	8141	8160	8184 8204 8211	8193 8205	8193 8209
ACCUSED ERICH PENZ	8224	8239	8245 8250	8248 8251	8251

EXHIBITS

No.	Description	Marked	Received in Evidence
P-91	Detention Report	8160	
P-92	Statement of Erich Penz	8249	
D-69	Order for release of prisoner	8216	8218
D-70	Letter from Dr. Ehrlich	8219	8220
D-70-A	English translation thereof	8220	8221

Camp Dachau, Germany

14 December 1946

MORNING SESSION

(Whereupon the court reconvened at 0920 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, who is absent on business of the defense; all the accused are present with the exception of Oswalt, Brusch, Lipinski, Mussfeldt, Wurst, and Hauser, who are ill and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: Continuation of direct examination, Mr. O'Connor.

BRUNO SKIERKA, an accused, voluntarily took the stand in his own behalf and continued to make an unsworn statement through an interpreter:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. O'CONNOR:

Q Skierka, at the close of the session yesterday you were speaking of the encampment on the night of the 22nd of April. What time did you resume the march on the morning of the 23rd?

A The 23rd of April about 9 o'clock, when we heard cannon fire--gunfire.

(Accused Skierka - Direct)

Q Do you know where it was coming from?

A Evidently from American tanks which were reported to be near.

Q Describe to the court what happened after that?

A The camp commander was immediately informed and he gave orders right away that the column should depart. We then crossed the river Regen near Posing. Again I was ahead of the column about one kilometer and a half in the direction of Cham. I looked back through my binoculars, and I was standing on top of a hill and I just saw that the column was leaving a village. The column was fired on by a tank, got machine gun fire to its left flank, and outside of that cannon fire, gunfire, was recognizable at the rear of the column. I then saw the prisoners and guards disperse, and I saw bodies lying around the fields--individual bodies and in groups. When the tank was near and I also drew fire I escaped.

Q Is that the time that the column was surrendered to the American forces?

A It was not surrendered, but it was scattered completely because of the fire from the Americans.

Q Mr. Skierka, there has been testimony from two or three different witnesses that on one occasion you reported to Major Berger that an SS man had shot a prisoner in the camp. Do you recall that testimony?

Just a minute. I misstated that. An SS man had shot a prisoner on a transport and you reported it to Major Berger in the camp. Do you recall that?

A Yes.

(Accused Skierka - Direct)

Q Will you describe the circumstances of that shooting?

A In February or March 1945 I heard rumors in the company that on a transport from Auschwitz, I believe, a sergeant allegedly had shot to death a prisoner. I investigated this rumor and I found two Hungarians who verified this rumor to me. I went to Major Berger with these two Hungarians and reported this thing to him. He immediately interrogated these two Hungarians through an interpreter and took Sergeant Weiss into arrest.

Q Do you know what happened to the SS man?

A The report was transmitted and a trial got underway, but this trial was not finished when the evacuation took place.

Q There has been further testimony that you made a report to Major Berger or someone else--I forget just who it was--that you reported an SS man by the name of Olchewski for certain misconduct of his in connection with the women's dormitory or barracks. Do you remember that?

A Yes.

Q Describe that to the court.

A After the large attack of American bombers on Dresden the headquarters did not have any communications any more with the out-camps at Dresden. The camp commander ordered me to find out whether these outside details at Dresden were still working or whether they were still existing. At one outside camp which was led by the technical sergeant Olchewski I found out that the whole thing was not handled in a manner as it should have been by Olchewski.

(Accused Okierka - Direct)

The female supervisors told me that Olchewski had gone into the billets of the women without a woman escort. It was forbidden for a man to enter the billets, the dormitories, in the women's camp without being accompanied by a woman.

After my return to Klosterneuburg I reported this to the camp commander as well as to Major Berger. Major Berger had this technical sergeant arrested also. Proceedings got underway also in this case, and it was taken up to the SS and Police court. [illegible]

[illegible] Mr. Skierka, you have signed a statement --

PRESIDENT: Just a moment, Mr. O'Connor. The court feels that in order to avoid any misunderstanding you had better bring out through this witness here any possible relationship between the man you mentioned and the man that the witness mentioned, Olchewski, and Olchewski, defendant No. 31? The court realizes that this has been brought out before, but we do not want any misunderstanding. I think the point ought to be covered.

[illegible] BY MR. O'CONNOR: [illegible]

[illegible] Was the SS man Olchewski that was involved in the incident the same Olschewski that is an accused in this case? [illegible] This Olschewski here doesn't have anything in common with the technical sergeant Olchewski.

[illegible] Mr. Skierka, you have signed a statement which has been introduced in evidence as Prosecution Exhibit No. 61, and the English translation as 61-A. Is that correct?

A. Yes.

Q. Prior to the time you wrote this statement, Prosecution Exhibit No. 61, had you been previously interrogated by the prosecution?

(Accused Skierka - Direct)

A The 25th of February I was interrogated here by Mr. Herkowitz in Dachau, but I have been interrogated prior to that in the same connection.

Q By whom?

A By the C.I.C. in the camp Natternberg.

Q Please describe to the court what happened on that occasion.

A I was mistreated severely in Natternberg. The mistreatment was carried out mainly by two men in American uniforms.

PROSECUTION: Just a minute. I object to this line of testimony, may it please the court, on the ground that it is immaterial and irrelevant to the issues in this case.

MR. O'CONNOR: I think it is very material to the court so they can understand the circumstances under which this man actually signed the statement which is now Prosecution Exhibit No. 61.

PROSECUTION: May it please the court, I think that if they could show any similarity in the treatment and the circumstances surrounding the giving of this statement then there might be some relevancy, but from the point of time at which this alleged mistreatment is said to have taken place and the time that this statement was given, which he himself signed, it is so remote that it is of no probative value to this court.

PRESIDENT: Mr. O'Connor, if you are able to connect up any possibility of duress at the time of previous interrogations with the final interrogation in which he signed Prosecution Exhibit No. 61, the court will receive the evidence.

MR. O'CONNOR: The only way I can connect it up is that the treatment that a man received at one interrogation would certainly have some bearing on a man's mental attitude with respect to what he could expect at a future interrogation, for instance, this interrogation when he signed this statement.

PRESIDENT: What was the date on which he signed Prosecution Exhibit 61?

MR. O'CONNOR: February 25, 1946.

PRESIDENT: What were the dates of the previous interrogations?

MR. O'CONNOR: I believe he said August 1945.

QUESTION BY MR. O'CONNOR:

Q What was the date of that first interrogation?

A 1st of August, 1945.

MR. O'CONNOR: I do not maintain that there was any connection between the two interrogations withrespect to the persons that conducted them or with respect to what was said at either one.

PRESIDENT: The objection of the prosecution is sustained.

QUESTION BY MR. O'CONNOR:

Q On the occasion of February 25, 1946, when you signed this statement, will you please describe to the court what took place at that time?

A I did not sign this statement on the 25th of February, 1946, but only on the 17th of April, 1945. The 25th of February, 1946, I was questioned by Mr. Berkowitz. He wanted to know names and incidents that occurred in the camp as well as on the march. At that time I was in a mental frame

of mind that I didn't care anything about what I did. My memory failed me then at times because of the beatings in Natternberg. At that time I had suffered a shock and was still suffering from it. Mr. Berkowitz made accusations to which I should agree, which I couldn't do, so he called me "liar" and other things. He told me that I would tell him what he wanted to know. Two hours after the interrogation had been finished I was admitted to the bunker. For one week approximately I was in solitary confinement.

Q Did you sign the statement on February 25?

A No. The 25th of February I did not hand over anything written.

Q On April 25, 1946, when you signed Prosecution Exhibit No. 61, you were not sworn, were you?

A I signed it on the 17th of April. I was not sworn in.

Q Is that the statement that you signed, Prosecution Exhibit No. 61 (hands document to witness)?

A At any rate it is my handwriting, yes.

Q Who was present at the time you signed that statement?

A Outside of Mr. Berkowitz, nobody.

Q Describe to the court just what happened when you wrote out this statement. What took place?

A Mr. Berkowitz questioned me prior to that for about an hour and a half. Again he accused me of incidents of which I didn't know anything. He confronted me with orders about which he wanted me to tell that they had been given by Lieutenant Colonel Hoegel. He quoted names of persons who

allegedly had taken part in the conference on the 10th, but who had actually not been there. As I said, I was in a frame of mind--in a stage where I didn't care about anything. At that time, a year and a half ago, I did not have any news from home. I didn't know where my family was--where my parents were. I didn't know whether they had fallen into the hands of the Russians. Outside of that I had to expect that I would be subjected to further mistreatment, after my experiences in Natterubers as well as in the bunker here. Mr. Berkowitz told me things about which I didn't even know anything. Then he requested that I should write down the things about which we had spoken the past hour and a half. He told me that I would do what he wanted me to do, otherwise I will get acquainted with a few things.

Q. Just a minute. Did you write this down or was it dictated?

PROSECUTION: Just a minute. I object to counsel leading the witness, may it please the court.

PRESIDING: Objection sustained.

QUESTION BY DEFENSE COUNSEL:

Go ahead.

A. I then wrote this statement and handed it to Mr. Berkowitz.

"I call your attention to an excerpt from Prosecution exhibit No. 61 beginning with "the commandant announced that he had received a radio message from Berlin containing an order 'to transfer the prisoners from the camp Flossenburg to Dachau. No prisoners allowed to fall into the hands of the enemy.'"

When did the commandant advise you of that message?

A I never heard that from the commandant. Mr. Berkowitz used this form and requested me to write it down in that manner.

Q You further stated in Prosecution Exhibit No. 61 that the commandant had seen a number of prisoners with shots in the head. The guards had to aim not upon the head but upon the body of the fleeing prisoners because the latter gives a larger target. I passed along this order to the NCO.

Did you pass along that order?

A This order had not been given in this manner, or at least I did not hear it the way it is described here.

Q How did you hear it?

A It was the 2nd day of the March -- the 21st of April when I was standing together with several noncommissioned officers conversing with them, having a conversation about the approach of the Americans. Sergeant Zielke approached and stated that a messenger had arrived with orders from the commandant, but I did not quite understand the message. However, it was contained therein something about head and heart shots. Upon inquiry it was positively established that the order read that no one was supposed to shoot at the head, but since several guards as well as noncommissioned officers had heard this report I was afraid that they had misunderstood it, and I talked about this order with noncommissioned officers.

Q Where were you when you talked with them about it?

A I was standing approximately 30 meters distant from the road. The column was resting on the meadow.

Q Where? Which day of the march did this take place?

A That was the 21st of April; in the morning of the 21st of April.

Q Do you know who was present when you had this conversation?

A At first I talked with two or three noncommissioned officers. In the meantime more and more had arrived, so that at the end there were ten to twelve.

PRESIDENT: Court will take a 15-minute recess.

(Whereupon at 1000 hours the court recessed until 1015 hours.)

(Whereupon the court reconvened at 1:30 hours)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Minter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Mr. Washburn and Mr. Becker, who are absent on business of the accused; all the accused are present with the exception of Mikinski, Kotsch, Tesalt, Wussfeldt, Hauser, Vatske and Wurst who are ill and who's interests are being taken care of by counsel.

PRESIDENT: Proceed, Mr. O'Connor.

PETER WIERKA, an accused, voluntarily took the stand in his own behalf and continued to make the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

I hand you Prosecution Exhibit No. 61 and call your attention to the incident therein you said that you heard that an order had been given for the shot to go well to the body because it was a better target. Will you please again tell the court where you were at the time that incident took place?

A We had a break during the march. It was the morning of the 21st of April 1945. I was standing there with several non commissioned officers and we conversed. Then Sgt. Zielke stated that a messenger man came from Lt. Col. Woegel; that he had gone along the column and had brought an order along, but that the messenger had vanished, dropped and that he had not understood the order right. All he could state was that something was said about head and heart shots in the order but he couldn't tell exactly what was the matter. After a back and forth discussion, it was finally found

(Wierka direct)

that no head shots should be fired but since the message, the order, was not clear and something had been said about heart shots, the non commissioned officers and I agreed that the order should be carried out in the following manner--the camp commander had seen dead bodies with head shots. You should not aim at the head of fugitives but at their body because you could prevent escapes easier that way. Head and heart shots are deadly, are fatal, and are to be avoided. Again I called the non commissioned officers' attention to the guard rules and told them that only fire should be opened if someone should escape.

Q What do you mean by "fugitive"?

A If a prisoner attempted to escape.

Q Will you explain to the court what you meant by the excerpt in your statement, "I passed along this order to the non commissioned officers."

A That was the discussion during which we agreed how it should be carried out.

Did you do anything further with respect to that matter?

A In the evening of the second day, as I have stated already, I had a discussion with Lt. Col. Kowal and told him that I had seen dead bodies, but when I spoke about the dead he interrupted me and told me he had taken the necessary steps. I didn't get around to speak about this order that allegedly came from him.

Q I call your attention to the excerpt from Prosecution Exhibit No. 61 wherein you stated, "I ordered the non commissioned officers to announce to the guards that they were allowed to shoot only if someone flees." When did you give that order?

A That was subsequent to the discussion we had about the interpretation of the heart and head shot order. I called the attention of the non commissioned officers to the guard rules and I pointed out to them that actually, fire should

(Sklerka-direct)

only be opened in case someone escapes.

Q Will you tell the court whether there were any attempts at escape or any actual escapes during the course of that march?

A According from what I heard from the guards, approximately 120 escapes occurred but really more escaping occurred because the guards resented to make reports since they didn't expect punishment.

I call your attention to the last paragraph of Prosecution Exhibit No. 61 wherein you state that a certain staff sergeant whose name you do not remember, went along the column and gave an order to shoot prisoners who could not walk anymore.

A I heard about that from a T. Sgt. Krueger in Hattenberg so that the prosecution could get some clues or could find someone who could clear up this whole matter.

Can you tell the court what happened as a result of that sergeant issuing that order?

A I don't know that because that is only hearsay.

Was that sergeant under your command?

A No, he was in the third column.

Do you recall the testimony of the witness, Kuefner, against you?

A Yes.

Q The prosecution witness, Adolf Kuefner, testified that when you were quartered in the forest near Kaunka or he heard you pass on an order. He testified that in the evening hours between the 19th and 20th in the forest during a rest pause, that you gave an order to shoot prisoners who fell out of the march. Do you recall that?

A I recall that testimony, however, that is not correct because I was never in the woods in the forest between Hoecentlurg and Neuenhammer on the evening between the 19th and the 20th of April.

Where were you on the first day's march, whether it was the 19th or the 20th of April, in the evening hours?

(Kierka-direct)

A The evening of the first day's march I was 23 kilometers distant from the camp of Flossenburg in a little village by the name of Auberarleth. Kuefner couldn't see me at all and he couldn't get any orders from me because he was not a member anymore of the guard battalion of Flossenburg. Kuefner was a member of the camp police and he had been transferred to the combat unit, Tromzer, on the 17th of April. He himself states that his section chief was 1st Lt. Schroeder but he was a member of the combat unit, Tromzer. But this combat unit did not have any connection with the guard battalion or the evacuation march. However, this combat unit made bivouac in Flossenburg from the 16th 'til the 20th of April.

Can you tell the court in what column Kuefner was marching?

A Kuefner marched in no column which belonged to the camp of Flossenburg.

I mean with respect to the four columns that marched out of the concentration camp, in which column was Kuefner?

A In none of the four. As he himself states, he left the camp of Flossenburg behind the last column.

Was that a fifth column?

A According to that, it must have been.

Approximately how far behind the column in which you were, was the fifth column?

A From what I found out, this fifth column left Flossenburg between 5:00 and 6:00 o'clock at night so that it must have marched behind my column approximately eight hours.

I call your attention to the testimony of the prosecution witness, Gautsch, do you recall that?

A Yes.

More specifically, he testified that Lt. Col. Koegel gave an order on the 20th of April that the camp was to be evacuated and that anyone who tried to escape was to be shot. Did you hear that order?

(Lodierka-direct)

A In the morning hours of the 26th of April I did not hear any order at all. I don't even know whether Lt. Col. Morel issued an order at that time. In the way, however, I learned that Lt. Col. Morel had pointed out the guard orders and had stated that each guard who would remove himself from the column would be shot to death.

Q Do you recall that the witness, Gautsch testified that you passed on that order?

A I believe he said that I had repeated it, yes.

Q What can you tell the court about that?

A I never gave such an order and never repeated it. Gautsch was a member of the camp police and my attention was called to him when he volunteered for a trainer for the camp police.

Q Did you, at any time during the course of the march, see Gautsch?

A I saw Gautsch during the noon rest the first day.

Q Where?

A When we took a rest near the mill in Neuenne war, the 26th of April 1945. I was standing here with a few non commissioned officers and since there was a forest near, the non commissioned officers pointed out to me that the prisoners could escape into the wood. I replied that the guard orders were valid here also and that in cases of escape, fire would have to be opened. Gautsch now gave the testimony that I have given orders that in case any prisoner would fall out of the column those prisoners would have to be shot to death. No word was ever said about shooting to death. I never spoke about shooting to death. In my home the word "take-off" is used instead of escape. This word was misunderstood by Gautsch and he misconstrued it and made "fall out" out of it. He also confirmed that I had not given the order in the manner he testified before this court, during a conversation with Mr. Okay. Mr. Okay probably recalls that. He said there that I had

(Clark-direct)

[illegible] that order word for word as he testified before the court, but that he had only understood it that way.

Mr. Pierka, you have testified before the court that you brought to the attention of the non commissioned officers the regular guard orders of the camp. What were those orders?

A. Those were the common guard rules which ruled in this case -- a prisoner trying to escape, use of the weapon will be made. That does not mean that the man who escapes should be shot to death.

Q. What does it mean?

A. The escape has to be stopped somehow by the shooting or else, if he does not stop, he has to be hit in such a manner that he cannot continue his escape after he has been hit.

Mr. Pierka, I want you to tell the court exactly what your power of command was during the entire course of the march.

A. I had no power of command whatsoever over any of the columns during the march. I had not been placed over any prisoners in any way, neither had I been placed in charge of any guard. I was not responsible for the food nor for the distribution of awards. The only order I had received from the commander was to show the road to the column.

Q. Is there anything further you want to tell the court regarding the testimony of the witnesses, Gautsch and Kuefner?

A. I have to complain that the witness, Kuefner, committed perjury since he did not belong to the column but to a very different unit. As I have stated he belonged to the guard unit Trommer, and this unit didn't have anything to do with the guard battalion of Floersheim. I was in no position to give any orders to this column nor transmit any orders to this column. The spot which he relates, right behind Floersheim, the forest, is about 20 kilometers distant from the place where I stayed. He stated

(Pierka-direct)

that I had come by motorcycle and then he also stated that when the column was under way I had returned from Neuenhammer by motorcycle and had returned to Flossenburg. Under those circumstances I could never have been in Auberesieth. Kuefrer was called to my attention also when he was a member of the camp police because I had to reprimand him since he had violated the prohibitions provided for for the camp. The camp had been blocked off by orders of the commandant. He left the camp and he was reported to me by a sergeant. For that reason I had to talk to him. During that conversation I emphasized to him that the commandant had issued orders that any camp policeman who would subject himself to punishment would be stripped of his uniform and remanded to the camp. As I said before, Gautsch called my attention to him when he volunteered to be in the ensure of the camp police. By his negligent handling an anti-tank weapon, the lives of others were endangered and he himself was wounded in the head and hands and I also was forced to reprimand him. Gautsch participated in the march with his head bandaged and went into the hospital the second day.

Q Is that all?

A I don't know anything else at the present time.

MR. O'KAY: I have some questions in the nature of cross examination on behalf of the accused, Zl, because of this witness's reference to the camp police.

CROSS EXAMINATION BY MR. O'KAY:

Q Mr. Skierka, what connection did you have with the camp police prior to the time that the camp was actually evacuated?

A The beginning of April I was called to Lt. Col. Koegel. He told me that he had picked out several prisoners from the camp, that he intended to make a camp police unit of them, and I was to assist and supervise their training.

Q Do you know what means Koegel used in selecting these prisoners who were to be members of the camp police?

A [illegible]

[illegible]

[illegible] given [illegible]

[illegible]

[illegible]

[

Q Do you know what kind of ammunition they were issued?

A What I found out from the troops, as I have been told later on, the ammunition was issued without regard to what type of rifle the man was carrying.

Q Will you explain to the court whether it is possible to use all types of ammunition in the weapons that were issued to these camp policemen?

PROSECUTION: I object to that, may it please the court, on the grounds it calls for a conclusion of this witness and invades the province of the court and no predicate has been laid for an answer of this type.

PRESIDENT: Objection sustained.

QUESTIONS BY ATTY. [illegible]:

Q Will you explain how the camp police were selected that accompanied your column?

A 1st Lt. Albert took charge of distributing all the guards. There were camp police with the first column also. As I stated before, they were distributed to all columns.

Q Going back to the camp police, prior to the evacuation will you explain to the court what, if any reason, Kogai gave for the organization of the camp police?

A Camp police was just a name. It was to be trained, the unit was to be trained, and then sent to a combat unit.

Do you know whether the accused, Sakubith, was ever designated to go to the front with one of these units?

A No, no member of the camp police was sent to the front lines anywhere because they had not been trained completely.

How much training did these camp policemen have in the handling of weapons?

A Very slightly, so far as I know they didn't even fire beforehand.

PROS. [illegible] That is all.

(Adjourned-direct)

Continued: Cross examination.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Skierka, you joined the Nazi Party in 1933, did you not?

A Yes.

Q You joined the Allgemeine SS early in 1933 also, did you not?

A Yes.

Q And you were a member of the Death Head Unit of the SS, were you not?

A No.

Q Never?

A Never.

Q Didn't you make a statement that you were? Just answer my question, whether you did or did not make a statement that you were a member of the Death Head Unit or not?

A No, I was not member of the Death Head SS because they were deactivated in 1939 already.

Q I didn't ask you that. I asked you to state whether or not you were a member of the Death Head Unit of the SS or not.

A I was with the Seventh Death Head SS Regiment and that is probably what the Prosecutor is referring to.

Q You just answer my question. Do you understand the question.

A This regiment did not belong to the SS Death Head Units.

Q Did you ever make a statement that you belonged to the Death Head Unit of the SS?

A I can't remember that.

PROSECUTION: (to reporter) Will you mark this please Prosecution Exhibit 91 for identification?

(The document referred to was marked Prosecution Exhibit 91 for identification.)

Q Where was this Death Head Regiment you were talking about?

A In Norway.

I hand you a document which has been marked Prosecution Exhibit 91 for identification and ask you to examine the back of the sheet and state whether or not that is your signature.

A That is my signature.

Q I will ask you to state whether or not you were required to fill out a detention report on or about May 1945 at Nattenberg?

A No, I did not fill it out.

Q Did you furnish the information from which it was filled out?

A Yes.

Q And I will ask you to state whether or not at that time you gave the information that the service and branch of your occupation at the time of your arrest was the SS Death Head Unit?

A No.

Q You are Bruno Skierka, are you not

A Yes.

Q You were born the 3rd of March 1897?

A Yes.

Q You were born in Danzig, were you not?

A Yes.

Q You had a moustache at that time, did you not Skierka?

A Yes.

Q You were an SS 2nd lieutenant, were you not?

A Yes.

Q And your soldier's book was No. 2394, is that not correct?

A I don't know that.

Q Oh. And you read over the document which has been marked Prosecution Exhibit 91 for identification, prior to the time you signed it, did you not?

A No.

(Skierka-cross)

Was it filled out at the time you signed it?

A That I can't even say.

Well, you furnished the information from which it was made out, did you not?

A I was asked questions yes, and I gave the information.

You never told at any time that you were a member of the SS Death Head Unit?

A I never said that.

You wore a Death Head on your uniform, did you not?

No.

Never, at any time?

A No.

You gave them the information that you were a member of the guard battalion at Flossenburg, First Co. did you not?

A That I said.

You also stated that you were arrested in Straubing, did you not?

A I said that, too.

And you also said that you were arrested on the 1st of May 1945 at approximately 10:00 o'clock, did you not?

A The 1st of May, I don't know the time.

And you also told them that you were stationed at Oberpfalz in Germany, 1944 and 1945, did you not?

A No, I stated that I was in the camp of Flossenburg.

That's right, that's my error.

LT.COL. SHELVIG: What is the spelling of that town?

THE INTERPRETER: O-b-e-r-p-f-a-l-z.

COL. WILSON: May it please the court, let the record show that Kus felct and Kurst have returned to the dock and that Col. Wilson has returned to the courtroom.

(Kierkn-cross)

[illegible] CTI[illegible]:

Y[illegible] told the[illegible], did you not, [illegible], that on your previous occupations of positions held, that you were in the [illegible] and in the [illegible], is that not true?

[illegible] I would understand [illegible]

Did you understand it at all?

[illegible], I did not understand the question.

At the time this questionnaire was filled out, you have the information [illegible]; your previous occupations of positions held, that you were in the [illegible] and also in the [illegible], is that not true?

I am told that I was in the [illegible] from 1914 to 1918 and I have been in the [illegible] from 1933 until 1940.

You also stated that you had been [illegible] in [illegible], did you not?

[illegible]s.

Can you explain to the court how it is that all the other information [illegible] this questionnaire is correct except the exception of the fact that you were a member of the [illegible] of the [illegible]?

Because the one who filled that out was under the assumption that a concentration camp is a [illegible] [illegible] emphatically emphasized at that time that it was not a [illegible] camp.

[illegible] additional questions [illegible] a fairly large number of the [illegible] questionnaire, is that correct?

[illegible] Yes.

[illegible]

[illegible] and [illegible].

[illegible]

[illegible].

[illegible] the [illegible] of [illegible] [illegible] oil, it was done in your handwriting, was it not?

(Alert-cross)

A I wrote that in my own handwriting.

Q You were alone in the room when you wrote it, were you not?

A Mr. Berkowitz was in there in the room also. He left part of the time and then he came back and was standing behind me to look over what I had written down.

Q Was anyone in there the entire time that you wrote this document marked Prosecution Exhibit 61

A Not all the time, no.

Q You were not threatened by violence by Mr. Berkowitz at the time you wrote this document marked Prosecution Exhibit 61, were you?

A I was not beaten.

Q Were you threatened with violence by Mr. Berkowitz at the time you wrote this document marked Prosecution Exhibit 61, Skierka?

A He threatened me with words and gestures and as I stated before, the frame of mind I was in at that time, I had to be afraid that I would again be mistreated as I had been previously, and under those circumstances I wrote that.

Q Now tell the court what gestures Mr. Berkowitz made to threaten you to write Prosecution Exhibit 61?

A He told me that I would write that down just as he wanted that to be written down, otherwise something would happen to me and then he added the English word "beast".

Q So he called you "beast" and you wrote, is that correct?

A He used the word before that.

Q That is what I said. He called you "beast" and then you began to write, is that correct.

A Yes, because I had to be afraid that I would be mistreated again. The first time was sufficient for me. I was in the hospital then with a severe shock; with knocked out teeth and swollen testicles.

(Skierka-cross)

How many teeth did you have knocked out?

A Four.

Did Mr. Berkowitz threaten to knock out any of your teeth?

A No, they were gone by that time.

You had more than four, did you not, Skierka?

A Yes.

What portion of the time, Skierka, was Mr. Berkowitz in the room while you were writing this document marked Prosecution Exhibit 61?

A He went out and he came back in.

Q I know that, you told us that before. I want to know how long he was there?

A I don't know that because I was much too excited at that time.

Q How long did it take you to write this document marked Prosecution Exhibit No. 61?

A I treded approximately two and a half or three hours.

Q And during the course of those three hours, how much of the time was Mr. Berkowitz there, in your best judgment?

A I don't say because I was in a "I don't care" condition at that time and I was not able to observe exactly. I only know that he opened the door and looked in at times and then he came back and stood behind me to see what I was writing and then he went over to the desk.

Was he there as much as 15 minutes during those three hours?

A According to my opinion, more.

Q As much as an hour?

A I can't give any time, I don't know it.

Q Have you any judgment about it, Skierka?

A I only know that he went out, that he came back in, and after a while went back out again, but I don't know how often he did that.

(Skierka-cross)

Q That you wrote in Prosecution Exhibit 61 was the truth, was it not?

A Not in all points.

Q You were asked to write what was the truth, were you not?

A No, that I would write down what he wanted to know, what we had talked about.

Q What had you talked about? Was it the truth or was it not?

A No, that's just it. That was not the truth because I didn't know about many of those things.

Q Have you told the court in your direct examination all the matters in Prosecution Exhibit 61 which were not the truth?

A For instance, it says in this document that Dr. Schultz had been present during the conversation, during the conference, on the 17th of April. That is not correct because Dr. Schultz was not present at all, he was in the hospital all that time. Furthermore, I don't know whether all names mentioned in there are correct. Secondly, I never heard any order being given during the conference and I did not hear this order later on either that prisoners should not fall into the enemies hands.

Q Did you not tell the court yesterday that you had heard that from Lt. Albert?

A I stated yesterday that Lt. Albert had told me that the camp would be evacuated and that even the sick prisoners were to be evacuated, too. Never was the expression made that no one was to fall into the enemies hands.

Q Was there anything else about Prosecution Exhibit 61 which is not true?

MR. O'CONNOR: If it please the court, I think the witness should be given the opportunity to look at the statement.

PROS. CUTTON: I imagine he has seen it a thousand times.

MR. O'CONNOR: Let him take a look at it again.

PRESIDENT: The witness will be allowed to peruse the statement, that is the court is referring to Prosecution Exhibit 61. Court will take a short recess in place.

(Whereupon the court recessed in place.)

(Skierka-cross)

PRESIDENT: Court will come to order.

QUESTIONS BY PROSECUTION:

Q Now, Skierka, after having observed Prosecution exhibit 61, will you tell the court whether there is an error in any other respect?

A I should like to state that the statement consists of facts as I have seen them; consists of inferences; consists of stories given by others and of the suggestions made by Mr. Berkowitz.

Q Will you please answer my question?

A How was that?

Q After having examined Prosecution exhibit No. 61, will you tell the court wherein that document is in error in any other respect, other than what you have mentioned to the court?

A I wrote the statement and you cannot call it errors, but it is not according to the facts. It gives a different picture.

Q You wrote the statement according to your memory as it was in April 1946, did you not? At that time this statement was correct as far as your memory served you, is that correct?

A It was correct and then again it was not correct, because I was under the impression and under the score of being mistreated again, and I wrote in this manner to satisfy the interrogator.

Q The interrogator, as you have stated, was not in the room at the time you wrote, not all the time, is that not true?

A The interrogator was not in the room, however, he requested me to write it in this manner and I had to be afraid that if I did not write it as I did, I would receive my beating afterwards.

Q The only threat that you got was that you were called a beast, is that not correct?

A After the first interrogation I was been placed in the tunker without knowing why.

(Skierka-cross)

Q Just answer my question, please.

A No, I did not take the expression, "beast" alone as being a threat but also the facial expression as well as the talk made by Mr. Barkowitz.

Q During the entire nine pages of your statement that was written by you, you never changed a single sentence, is that not correct?

A That would have been without any purpose and I didn't even reread it again after I had finished.

Q You wrote it in your own handwriting, is that correct?

A That I did.

Q Mr. Berkowitz didn't dictate to you the language to use in the statement, did he?

A No, he did not dictate it to me at the very moment when I wrote it.

Q It took you three hours to write it?

A Approximately.

Q You used your own language?

A Yes.

Q Now, Sklerka, in that statement marked prosecution Exhibit No. 61, you stated, for the first column were appointed 2nd Lt. Sklerka and 1st Lt. Beyer, is that not correct?

A 1st Lt. Beyer and I were with the first column so I assumed that we had been designated for it.

Q Well, you were designated, were you not, for the first column?

A As I have stated, the Lieutenant Colonel had given a orders to show the route to the column.

Q You answer my question, please, Sklerka.

A I can't say anything else but what I have said before, that I was not designated for the first column but I was to show the road, the way, to the first column.

(Sklerka-cross)

1st Lt. Lacher and 2nd Lt. Rink were appointed for the second column, were they not?

A I don't know that. I found out about that from 2nd Lt. Albert the morning of the 20th of April. What jobs these different leaders had is not known to me.

Q Capt. Schenk and a leader from Buchenwald were appointed for the third column, is that not correct?

A I only heard about that from 2nd Lt. Albert.

Q You learned that from Lt. Albert, is that not right?

A Yes.

Q And for the fourth column Lt. Albert, Lt. Pahlbeib

A Yes.

Q Each column then had two officers assigned to it, is that correct?

A According to that, yes.

Q Well, that is according to the facts, is that not true?

A I don't know whether it is a fact.

Q From what information you had it was a fact, is that not true?

A I received the information from 2nd Lt. Albert.

Q These men were all at the conference held on the 19th of April, were they not?

A Whether they were all present at the conference I don't know, either.

Q You were present at the conference part of the time, were you not?

A I was present during part of the time.

Q During part of the time you saw these men there, did you not?

A For instance, Capt. Schenk I don't know at all, so that I don't know whether he was present there. There were strange officers whom I didn't know so it is possible that Capt. Schenk was there.

Q Lt. Beyer alleged that he was sick and rode in the wagons at the tail end of your column, is that not true?

(Whereupon-

A He told me that the morning of the 26th of April.

Q It is a fact, is it not?

A Whether he was sick, I don't know.

Q He did ride at the tail end of the column, didn't he?

A Yes.

These non commissioned officers were to you to determine what was the true state of facts concerning the order of shooting through the head or through the heart, did they not?

A We were standing together and we were conversing already at that time when Sgt. Zielke came to us and told us about it.

Q He gave the command to rest during the first day?

A The leader of the first section designated on his own initiative the first place of rest and then there joined.

Q You mean then you, as an officer, were there, assigned to that column and the non commissioned officers selected the rest places, is that correct?

A I picked out the places for rest, however, not in the first place of rest, if you mean by that the noon break, and of the remaining, that is to say, the rest camps for the night, I picked out the first and third.

Q You gave the order, did you not, that no one was to be shot unless he was trying to escape?

A When I was asked about that I pointed out the guard rules and I stated that no shooting should take place if the prisoners do not escape.

Q Didn't you state, in answer to Mr. O'Connor, that you gave that order to shoot only when ordered, in connection with the subject of the interpretation of the head and heart orders?

A I did not say that I gave any order. I merely said they should pay attention to the fact that they would only be given in case of an escape.

Q Is it not a fact that you were not in command and that was none of your business?

(Okier -cross)

A I did not have charge of the column but since I had trained these guards and had given instructions to them, I pointed out to them they should act according to the guard rules.

Q You trained those guards and they orders from you, did they not?

A I did not know these guards because they had been combined from all companies and many of them were from other camps. There were only a few there whom I knew.

Q Did you tell those guards that you were not exercising any command with respect to that column?

A That I did not tell to the guards.

Q In fact, you did not tell that to anybody, did you, Skierka?

A No, because they had not been told in the first place that I had been in charge of the column.

Q In other words, that was a column that had no one in charge of it, is that correct?

A The first column did not have any designated leader according to what I saw.

Q It just moved along, is that correct?

A No. The column had been divided into four sections and they received their orders from Lt. Col. Koegel.

Q As a matter of fact, you did not see Koegel every day, did you?

A Yes.

Q You did see him every day?

A Every day.

Q The first time you saw Koegel was near the village of Sauberwieth. Is that the first time you saw Koegel?

A Yes, that was the first day.

(Skierka-cross)

That column moved from Flossenburg to Schubersreuth without Koegel being there, is that not correct?

A Koegel had been in the car in the morning. He had issued his orders to the column and they marched according to those orders.

Didn't you tell the court that you didn't hear Koegel give any orders at all?

A Correct.

Q So you don't know whether he gave any orders or not?

A But I have to assume that Koegel gave the orders for the departure.

Q That is just your assumption and you just don't know, do you?

A No, I don't know it, no.

Q It's just your assumption that Koegel was in command of that column, is that not true?

A According to what I saw, Koegel did have command over the column.

Q And you were his subordinate, were you not?

A I was his subordinate in Flossenburg and on the march.

Q You carried out the orders that Koegel gave, did you not?

A No, because I did not receive any orders from him on the way except for the one on the evening of the first day when I was told to be ready to march the next morning.

Q These bodies you saw lying beside the road were approximately how many in number?

A I can't say exactly, but there were only more or less 20.

Q You mean the total number of bodies you saw along the line of march was only 20 to 30?

A Yes.

Q They were lying along the side of the road or in the road?

A They were lying to one side of the road. I did not see one body on the road.

(Skierkowski)

Q Were they lying in the ditch by the side of the road?

A I saw the nearest one at a distance of about three meters from the road.

Q What was the farthest one that you saw away from the road?

A Approximately 10 meters.

Q You had 150 cases of escape, is that correct?

A I conversed with the guards in the evening at the rest places and in the quarters and from these conversations I could guess that someone had escaped here and someone had escaped there and if you add all these numbers together you get the number of 150 escaped cases.

Q In other words, they were successful escape cases?

A According to what I heard these must have been successful escapes.

Q During that time how many attempted escapes did you have?

A I did not hear anything about that.

Q There was a lot of shooting going on on that march, was there not?

A I heard shooting every place, in front of me, to my side and above me, every place shooting was going on.

Q. And shooting was going on in that column was it not?

A Whenever I was with the column I did not hear any shots, no shots fired in the column.

Q Then why was it that you called the guards together and told them there wouldn't be any more indiscriminate shooting?

A I didn't say anything about indiscriminate shooting.

Q Unnecessary shooting.

A After I had seen those dead bodies I was thinking of the Geiss case. I didn't want to point out frequently to these people. I saw it fitted that time to point out that no unnecessary shooting would go on, that is to say, whenever someone felt like it. That is the case which I have related already, the morning of the 21st of April when I was standing together with the non commissioned officers.

(Skierka-cross)

Q You had nothing to do with the escorts, why did you call them together and tell them that?

A As I have stated, I was standing with these non commissioned officers and more and more came toward us so there were possibly ten or twelve in the end.

Q When was that?

A That was during the morning of the 21st of April, during the break.

Q Just tell the court approximately how many of these conferences you had with the non commissioned officers?

A I had just the one. During the first break in the first marching day, there were some non commissioned officers standing there also with whom I talked but I only had one conversation of this kind as being related here with non commissioned officers.

Q You only had one conversation with the non commissioned officers during this entire march from Flossenburg until the time the column was freed, is that correct?

A No, that is not correct, either. This was the only conversation of its kind when something was said about the shooting. I talked quite often with the non commissioned officers.

Q What was the occasion for your riding back and forth on your bicycle along this column?

A For instance, I visited the column at the cross road. Whenever I knew that it was a straight road for some distance, that is to say, the road was leading straight ahead, I would let part of the column march ahead by me and later on I would pass them by.

Q Didn't you ride up and down the column checking up on the guards to see they were following the rules set forth for the guards Is that not true?

A No, that was not my job. As I said I was just standing around because I didn't have anything else to do.

(Skierka-cross)

Q Wasn't it rather peculiar a lieutenant in the SS should be standing around with nothing to do with a column there with no officer in charge of it?

A I don't know what to answer to that.

Q I am sure you don't. Now, the guards were armed with soft nosed bullets, were they not?

A I don't understand "soft nosed bullets".

Q Lead.

A The ammunition was the regular ammunition as every soldier has. I didn't see any other ammunition.

Q Did you see any ammunition at all?

A Then it was issued in the camp itself.

Q You didn't issue it, did you?

A No.

Q What were you doing there?

A I passed by there and I saw how it was issued in the Ordnance Room.

Q Isn't it a fact you just passed by there just as you passed up and down the column?

A No.

Q You had no duty there, is that right?

A I went from one barracks to another and the Ordnance Room is straight cross from the Battalion Office.

THE IDGE: Court will adjourn until 9:00 o'clock Monday morning.

(Thereupon the court adjourned until 0900 hours, 16 December 1946.)

(Skier -cross)

Ta 682 Givin
12-16-46
1 - Floor

Camp Dachau, Germany

16 December 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Lusch, Oswalt, Lipinski, Hurst, Hoefeldt, Hauser, and Ginschel, who are sick and whose interests are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross examination, Colonel Denson.

DEFENSE COUNSEL: The defense requests permission to take out F. Becker, Number 1, for consultation.

PRESIDENT: Request granted.

DEFENSE COUNSEL: And Doctor Schmitz also.

PRESIDENT: All right.

BRUNO SKIERKA, an accused, voluntarily took the stand in his own behalf and continued to make an unsworn statement through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Skierka, you testified the other day, as I recall, that when guards shot at prisoners they were not supposed to shoot at them so as to deliver a fatal shot. Is that correct?

(Skierka-Cross)

A It was, if possible, to be avoided that anyone of the fugitives got killed.

Q In other words, they were to first shoot at the legs or some other part of the body that would not result in a fatal shot. Is that correct?

A They were to shoot to prevent the escape.

Q Well, there are two ways of doing that. Is that not so, Skierka?

A Yes, several.

Q And one is by killing the prisoner immediately, and another is by injuring him. Is that not correct?

A No, to avoid the escape it is not necessary to fire at the prisoners at all; sometimes one shot is enough and the prisoners will stop.

Q Well, that is even a better way, is that not true?

A Better if someone would be hit.

Q Oh, it's better to hit them. Is that correct?

A No, the main thing is to prevent them from escaping.

Q Well, as a last resort you would shoot in order to kill. Is that correct?

A No.

Q Well, what was the last resort in order to prevent escape?

A If some one could not go any farther, if he was on the ground - let's say he had been hit in the leg, the escape is prevented then anyhow.

Q And that was better than killing them. Is that correct?

A Of course.

Q Now, tell the court how many prisoners you had in your column there that had been shot so that the shot was not fatal.

A I don't know that; I did not see anyone killed in the column and I did not see that anyone was fired upon.

Q You gave instructions that they were not to shoot to kill immediately, did you not?

A The instructions were given out, the guard rules, during the instruction hours.

Q Well, those were part of the instructions, were they not?

A It was part of the instructions; the general guard rules were part of the instructions which were given.

Q And were those general guard rules also applicable to Flossenburg and the out-camps?

A Yes.

Q But you don't know of any prisoners there who had been shot in a part of the body where the shot was not fatal. Is that correct?

A During my time no case of escape occurred in the camp of Flossenburg; at least I don't know anything about that.

Q And the same was true on the transport?

A I don't know that; I heard that prisoners escaped.

Q But you don't know of any that were shot through the legs or a non-vital part of the body. Is that correct?

A I don't know whether anybody was hit at all.

Q Who was it that punished the guards for permitting prisoners to escape?

A They were punished by the SS and police court.

Q Now, you explained concerning these head and heart shots, did you not?

A Yes.

Q And what effort did you make to make the order plain that was given to the column by this so-called sergeant?

A I tried to talk to the commandant in the evening, as I stated on Saturday; I told the commandant that I had seen dead bodies; he cut

me off short and left me standing there so that I didn't get a chance to talk to him about it.

Q Well, isn't it a fact, Skierka, that it was unusual that all of these prisoners who were alleged to have attempted to escape were shot in the head?

A I don't know that; I did not see anyone who had a head wound.

Q Well, in what part of the body were these people shot whose bodies you did see?

A I was not able to determine that.

Q Well, you saw 20 or 30 bodies, did you not?

A Yes - I have to correct myself there; I assumed that those were dead bodies which were lying around there.

Q Well, they were not moving at the time you saw them, were they?

A When I saw them they didn't move, no.

Q And at that time you concluded that they were dead, did you not?

A I concluded that they were dead.

Q And you made no investigations to determine the cause of death. Is that correct?

A No.

Q Well, isn't it a fact that you became concerned about the number of dead bodies that you saw there on this transport?

A I was concerned about it.

Q And the doubts and concern that you had at that time were increased, were they not, by the order that you had received from the camp commandant about the head and heart shots? Is that not true?

A Yes, because I couldn't see clearly what was going on.

Q Well, it wasn't any concern of yours what was going on inasmuch as you were not in command of the prisoners or the guards?

A I was not in charge of the guards but I was concerned about it as a human being.

Q How many other things were you concerned about as a human being which took place in Flossenburg that you knew about, Skierka?

A I didn't notice anything else whereby I should judge things as a human being and as a soldier.

Q You were not concerned then about the fact that these prisoners were being starved to death in Flossenburg?

A I don't know that they starved.

Q All the prisoners that you saw then looked pretty fat and sleek. Is that correct?

A There were fat ones among them and there were thin ones among those whom I saw.

Q And you didn't see any who were suffering from malnutrition?

A No.

Q And you had about three thousand in this column that was on this march. Is that correct?

A I estimated them to be three thousand, yes.

Q Now, as a human being you were not concerned enough to examine these bodies to ascertain the cause of death. Is that correct?

A I assumed that they were dead; there were doctors on the way and I assumed that they would determine the cause; I could not know anything about it myself.

Q And as a human being you were not concerned with the mistreatments that these prisoners received in Flossenburg. Is that correct?

A I did not notice any mistreatments.

Q You never saw any beatings at any time while you were in Flossenburg. Is that correct?

A It all depends what you call beating.

Q Well, what do you call beating, Skierka?

(Skierka-Cross)

A If someone should be beaten with a club or should be beaten severely with the fist.

Q And you never saw any man beaten with the 25. Is that correct?

A That is correct.

Q How long did you say you were in Flossenburg?

A From the middle of September, 1944, until April, 1945.

Q Now, you made a statement to Lt. Colonel Shaw, who is now deceased, did you not?

A One day I was called to Lt. Colonel Shaw and I was interrogated by him.

Q Did you make any statement to him?

A No.

Q You never made any statement to Colonel Shaw at all?

A No.

Q Either oral or written?

A He questioned me about the written statement which I had already handed in; other than that I did not make a report.

Q Well, when you say he questioned you about that statement, did you make any answers to those questions?

A Yes.

Q And who else was present there besides you and Colonel Shaw?

A An interpreter and an American soldier.

Q And part of the time Mr. Berkowitz was there, was he not?

A I did not see Mr. Berkowitz there present one time.

Q Do you say that Mr. Berkowitz was not there at any time during your interview with Colonel Shaw?

A That is what I wanted to say.

Q That time, isn't it a fact that you stated that the second day of this march you received an order from a messenger that shots should be through the body and not through the head and that you

passed this order on to the leaders of the groups in your column. Is that not correct?

A That is not correct; I never relayed an order in which it was stated that shots should go through the heart.

Q I didn't ask you that; I asked you whether or not you made that statement to Colonel Shaw.

A I never made such a statement.

Q Did you make this statement to Colonel Shaw: "I often heard shootings and I told the men not to shoot so much as we did not have so much ammunition"?

A It certainly wasn't in that manner.

Q Just answer the question. Did you make that statement or not?

A I don't know that, whether it was in that manner.

Q At that same interview, is it not a fact that you made this statement to Colonel Shaw: "I passed on to the guards the order from Koegel that no shooting should take place in the villages because of danger to inhabitants"?

A That I said.

Q What was the occasion for your making that statement? Was it true or false?

A Commandant Koegel had given orders that no shooting should take place in the villages.

Q Then it is true that you passed that on to those guards. Is that correct?

A I passed that order on to the guards, yes.

Q Now, what was the occasion of your passing that order on to the guards if you had no command over the guards and no custody or command over the prisoners?

(Skierka-Cross)

A Because I had orders given to me by Koegel to transmit this order to the group leaders.

Q And you also had orders from Koegel - you and Beyer - to take charge of this column, did you not?

A No.

Q Now, you stated that you didn't see any mistreatments of prisoners in Flossenburg. You also stated to Colonel Shaw, did you not, that you saw six prisoners hanged in January or February, 1945. Is that not so?

A I saw that, yes.

Q Does that come within your category of mistreatments?

A That is not mistreatments; that was the execution of a sentence.

Q When you had this interview with Colonel Shaw, did you deny to Colonel Shaw anything that you had said in the document marked Prosecution's Exhibit No. 61?

A I did not say anything about that on that occasion because I still had to be afraid of being mistreated.

Q And on what date was it that you were brought before Colonel Shaw?

A The twenty-third or twenty-fourth of April, 1945.

Q So that you were afraid of being mistreated in January. Is that correct?

A Nothing was said about January.

Q You were afraid of being mistreated again in February, were you not?

A I don't understand the question. I was afraid to be mistreated during the course of interrogations as it had happened once before.

Q Well, I want to know whether or not you were afraid of being mistreated in March of 1945.

A In March '45 I was not afraid.

Q And in April, 1945?

A No.

Q March '46?

A Yes.

Q April '46?

A Yes.

Q And now are you withholding anything from this court at the present time from the fear of being mistreated?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

MR. HALL: If it please the court, cross examination in connection with the accused Pinter and Penz.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Mr. Skierka, I call your attention to this meeting of Colonel Koegel on the twentieth of April '45. Do you know who was present at that meeting?

A No, because I did not take part in it.

Q Well, you got pretty close to the meeting place before it broke up, didn't you?

A No, I was not near the spot where the commandant issued orders and instructions to the guards about the march.

Q But you could see the spot at the time of that meeting, couldn't you?

A I was in the office and the windows of the room in which I was faced the other side.

Q You were in the office at the time of the meeting?

A During the meeting.

Q Well, didn't you say something yesterday about coming out of the forest just as the meeting broke up - the peat forest or something?

A No, I don't know that I said that.

Q From whom did you learn what orders were issued by Koegel on that occasion?

A I heard that from the guards on the way when we took breaks and made quarters.

Q How long after the meeting was it before the column left Flossenburg?

A I can't say that because I don't know exactly when the column left.

Q Well, what is your best judgment?

A Can't even say that.

Q Well, would you say an hour?

A I only know that I left about two hours after the meeting the commandant had with the troops.

Q Now, during that two hours, wasn't it discussed with anybody whatsoever what the occasion of this meeting was?

A I didn't talk to anybody about it because I was busy loading several things and I could not bother about it.

Q Well, you do know as a matter of fact that that meeting was attended by all officers and the SS personnel of the camp except yourself?

A No, I don't think so because Lieutenant Albert was in the office with me.

Q Now, I call your attention to this messenger who brought back the statement concerning the head shots or the heart shots. Do you recall the date of that incident?

A The twenty-first of April, 1945.

Q And where were you when the messenger arrived?

A I was standing on a meadow with three or four men.

Q And he came right up to your group? Is that correct?

A The messenger who came along the road did not come to our group but went along the column.

Q Well, how far were you from him?

A I didn't pay any attention to him; I only found out about it when Sergeant Zielke came to tell me that a messenger had brought that order.

Q And will you repeat again what that order was that Sergeant Zielke relayed from the messenger to you.

A Zielke didn't know the exact contents of the order; all he could say was that a messenger had come along the road and had stopped for a short moment and had said that no head shots should be fired and that he had also said something about heart shots; that is all he could say.

Q And what did you tell Zielke to do?

A We discussed this with several non-commissioned officers who then came to the group and we tried to clear up the matter and tried to figure out what this order could have been.

Q Well, you just had a round-table discussion with your NCO's to find out what the order was. Is that what you mean?

A I talked about it with a few non-commissioned officers.

Q Well, what order did you finally pass down?

A We agreed that we would transmit these orders in the following form to the guards: that the camp commander had seen prisoners with head shots; that they were not to shoot in the head but in the body, because the escape could be prevented easier in that way; head and heart shots are fatal and should be avoided.

Q At that time which part of this 3,000-man column were you located at?

A I was about 30 meters ahead of the resting column.

Q You were ahead of the entire column at that time?

A Ahead of the entire column.

Q And you saw to it that that message went the entire length of the column. Is that correct?

A No.

Q Well, how far down was that message to go?

A It was to be passed on only in case rumors came up among the guards that no head shots should be fired, but heart shots.

Q Well, if you were confused about it as an officer, is it not possible that all the NCO's throughout the column would be confused?

A Surely they were confused about it.

Q You say the order was to be passed down only if rumors got started about the order?

A In case the guards would discuss this order, then this order was to be passed on to them in the form as we had discussed it.

Q But you did have the order from the commandant that there would be no more head shots. That was clear wasn't it?

A Sergeant Zielke heard that from the order.

Q Now, Skierka, did you see Pinter and Penz on this march?

A No.

Q You have heard the testimony of Pinter before this court, haven't you?

A Yes.

Q And you have heard their statements read before this court, haven't you?

A Yes.

Q Now, Mr. Skierka, the order relayed by this messenger is of considerable importance to these private soldiers; you are an officer; you were in that column; I ask you to recall more carefully if you can what that message was.

A I did not hear the order from the messenger and I cannot repeat the exact wording of the order.

MR. HALL: That is all, sir.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Skierka, you testified on cross examination that you were asked certain questions by Colonel Shaw to which you made answers. Will you please tell the court whether or not there was a stenographer present who took down those questions and answers.

A No, no stenographer was there.

Q What did Colonel Shaw do when you made answers to his questions?

A Colonel Shaw made notes of the answers; I don't know whether he only jotted down words or the complete answers, but I have to assume that he put it down, that he put down just words because his notes were very short.

Q Now, I refer you to the order which Mr. Hall has interrogated you about and which you heard about from a sergeant. Did you at a later time have occasion to see that order yourself?

A No, I did not see it.

Q Well, subsequent to the time that you heard this order from the sergeant, or heard about the order from the sergeant, did you ever talk to Koegel about it?

A I stated before that I tried to talk to Koegel about it when I met him at the rest place.

Q Well, what did he say to you at that time?

A When I talked about the dead bodies, he only said very briefly that he had seen them, too, and that he had taken the necessary steps.

Q Well, what if anything did he say about that order?

A He didn't get around to talk about it because he left me standing there and took off in his car.

Q Mr. Skierka, there has been considerable interrogation of you in connection with who was in command of that first column. Will you please tell the court whether or not it is customary in the German army for the highest ranking line officer to be in charge of troops.

A It is most likely customary in the army that the highest ranking field officer will be in charge of the troops.

Q And who was the highest ranking line or field officer with the first column?

A With the first column the highest ranking officer was Lt. Colonel Koegel.

PRESIDENT: There may be some confusion about your last question, Mr. O'Connor, using the term "field officer".

MR. O'CONNOR: I said "field" or "line"; I used both terms.

PRESIDENT: Well, the court is speaking about the term "field officer".

MR. O'CONNOR: Do you want me to clarify that?

PRESIDENT: I think you had better.

QUESTIONS BY MR. O'CONNOR:

Q Will you please tell the court what you understand a field officer to be.

A Under field officer I understand that to be any kind of officer who has taken the examination for leading troops in the field.

Q That is what it means in the German army?

A Yes.

Q Now, Mr. Skierka, I call your attention to Prosecution Exhibit No. 61. You testified that you were told that that document would be written the way Mr. Berkowitz wanted it to be written. Is that right?

PROSECUTION: Just a minute. I object to that, may it please the court, on the grounds that it is leading and suggestive and doesn't conform to the record.

PRESIDENT: Repeat that question please, reporter.

(Whereupon the question was read by the reporter as follows:

"Question: Now, Mr. Skierka, I call your attention to Prosecution Exhibit No. 61. You testified that you were told that that document would be written the way Mr. Berkowitz wanted it to be written. Is that right?")

PROSECUTION: I object on the further ground that it is repetitious, assuming that what he says is true.

MR. O'CONNOR: I haven't asked the question yet; I haven't finished; I am just asking if that is what he testified in answer to Mr. Denson's question and I haven't asked my question yet.

PRESIDENT: Objection overruled.

QUESTIONS BY MR. O'CONNOR:

Q Now, will you please tell the court at this time whether that Prosecution Exhibit 61 does represent the way Mr. Berkowitz wanted you to write it.

PROSECUTION: Now, I object to that, may it please the court, on the ground that that is two questions in one.

MR. O'CONNOR: I don't understand the objection.

PROSECUTION: Well, I would like to explain it to him. He just said that he didn't finish his question; and it appears that he ended up "is that not so?" Then he turns around and asks this question and I now assume from what he has already told to the court that this second question is a part of the first question.

PRESIDENT: Was there any answer to the first question?

INTERPRETER: He didn't answer.

PRESIDENT: Objection sustained. Let's have an answer to the first question.

(Whereupon the question was read by the reporter as follows:

"Question: Now, Mr. Skierka, I call your attention to Prosecution Exhibit No. 61. You testified that you were told that that document would be written the way Mr. Berkowitz wanted it to be written. Is that right?")

A Yes.

[illegible]

PRESIDENT: The court will take a half-hour recess.

[illegible]

(Whereupon at 1000 hours the court recessed until 1030 hours.)

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

(Thereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Losch, Oswald, Lipinski, Mussfeldt, Kanner and Wurst, who are ill and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of redirect examination.

BRUNO SKIERKA, an accused, resumed the stand in his own behalf and continued to make the following unsworn statement through an interpreter as follows:

REDIRECT EXAMINATION (Continued)

Q Will you please tell the court whether that was the way Prosecution Exhibit No. 61 was actually written?

A I would not have written the report in the way it is now purported to be written if I had not had fear that I would have been mistreated again.

Q At the time you signed Prosecution Exhibit No. 61, you testified on cross examination that you were alone in the room. Do you mean by that that there was no guard there or anyone at all?

A No, I was alone and from time to time, Mr. Berkowitz would come in and sit at his desk and see what I was writing.

Q What did he say to you on these occasions?

A At that time, he didn't say anything else.

MR. O'CONNOR: That is all.

PRESIDENT: Any further questions on the part of the defense at the present time? Apparently not. Recross?

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did you finish that statement, Prosecution Exhibit 61, all in one day, or did you do it partly one day and partly the next day?

A It was written during two days.

Q In other words, you went out in the evening and came back the next morning and finished it, is that correct?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You believe, just what officers were on duty with that first column during the course of the evacuation march?

A Lt. Colonel Koegel, 1st Lieutenant of the SS Remmertner, 1st Lieutenant of the SS Beyer and I.

Q Did First Lieutenant Beyer rank you or did you rank him?

A He was my superior according to rank. He was not my subordinate. I could not give him any orders.

Q You have intimated that Koegel and Remmertner were on duty at that time, in fact Koegel was in command of all columns who left Flossenburg, or rather all columns were under his responsibility.

A Yes.

Q And you are trying to imply to the court that Koegel was in command of that first column?

A Koegel was with this column every day and gave orders to the soldiers and non-commissioned officers. As far as I know, there wasn't any special leader put on duty for these four divisions.

(Interrupt-Court)

Q Can you tell the court whether or not Koegel did the same thing with the other columns that were under his responsibility?

A I only know that every night whenever we pitched camp, Koegel was with the first column.

Q Are you trying to imply to the court that Koegel in addition to his responsibilities for all these columns, took active command of this first column?

A That is the appearance it had.

Q During this entire time that you were in Flossenburg, as I recall, from September, 1944 to April, 1945, you did not see a single case of mistreatment?

A I saw the roll call leader, Kuebler, hit prisoners on their head and the same thing holds true for the Captain of the SS, Neiling, and also 1st Lieutenant Baumgartner.

Q I thought you said a short time ago, during the course of the re-cross examination, that you had not seen any mistreatment there in Flossenburg?

A Well, I said expressly that when I hear the word mistreatment, I understand by that that is someone being beaten with a stick or fist.

Q These things that you have just related, they were in the nature of beatings or mistreatments, were they not?

A As far as I can determine, the prisoners got these blows because they didn't take off their caps.

Q Well, was that mistreatment or just a loving touch, or what?

A It certainly wasn't a loving touch, it was a blow against the head so that the cap fell off.

Q You did see a certain amount of mistreatments and beatings there, is that the idea?

A If you characterize that as mistreatment, then I did see it.

(Skierka-Court)

Q Did you see anybody get a beating on the horse?

A No.

Q Did you ever hear about it?

A No.

Q You never heard about it in all the time you were in Flossenburg?

A No.

Q So far as you know, the beatings on the horse never existed in Flossenburg during the time you were there, is that the idea?

A I never heard about anyone going there--I never heard about anyone being dragged to the wooden horse and beaten there.

Q Just why did you ride up and down the column from time to time on your bicycle, Skierka?

A I didn't drive back and forth around the column. I merely drove ahead of the column to the crossroads in order to show the first division of the column the route and then I got off my bicycle and stood there and waited until the following divisions came up and after the last one got there, I got on my bicycle and drove up to the head of the column again.

Q But you never drove back along the column, is that the idea?

A No., never back.

Q You just waited until the column went by, is that the idea?

A I drove up to the head of the column again after the column had passed me and after all the sections of the column had gotten on the right route.

Q Why was it necessary to wait until the entire column passed? Weren't you satisfied when the head of the column took the correct route that everything was O.K., as far as directions were concerned?

A I waited until the head people in the last section of the column were directed into the right route.

(Skierka-Court)

Q How much distance was there between the respective groups of your column or were they all in one entire group?

A They kept at various intervals, among these intervals was the interval of 50 meters, but the individual groups in the column spread out to a distance as great as 800 meters.

Q After you discussed the matter of an order from Koegel in regard to the head shots and the heart shots, what action did you take?

A I agreed with the non-commissioned officers to change the order to the form which I already have discussed here so that the soldiers would not be in doubt about it and have various opinions.

Q You gave that in the form of an order to be passed on to the guards then, or what?

A I discussed it with my non-commissioned men and we agreed among ourselves that the order would be passed on if we had suspicions that the soldiers had heard that an order had been given that heart shots should be fired.

Q You mean by that that there would be no head shots, but that there would be heart shots?

A No, no shots in the head, and no shots in the heart should be fired.

Q Well then, you did feel the necessity to talk to your non-commissioned officers on this column from time to time then, is that the idea?

A Whenever I came into contact with my non-commissioned officers, I would talk to them, while we were marching as well as when we were billeted.

Q Then you did feel some responsibility for the non-coms of the column, is that the idea?

A Although I didn't have any part of the command over the guards, I wanted to see that everything went along smoothly.

(Skierka-Court)

Q Why did you not have any power of command over the guards or the non-commissioned officers in that column, you were an officer in that column?

A The guards were not from the 1st company which was under my jurisdiction, and I didn't get any special order to take charge of these guards. They were not my subordinates in any manner.

Q But they were assigned to the first column for that particular march, isn't that the case?

A Yes, the soldiers which accompanied the first column had been assigned to the first column.

Q Who selected the rest areas for your column, the first column?

A We only rested or had quarters on three occasions and on two of these occasions, Koegel determined it.

Q What about the rest breaks during the course of the day? Who

made those decisions?

A They were determined by the individual sections according to the necessity.

Q You mean to imply to the court that whenever any section got ready to take a break, they just stepped and fell out to one side of the road?

A They lay at the side of the street, in the ditches along the road, and took a break for a few minutes.

Q Did all those sections do that at the same time?

A No, not always.

Q What was this Lieutenant Beyer doing on the march?

A I only know that he was back with the wagons.

Q What was he doing back there?

A I don't know, I only came in contact with him when we had quarters at night.

Q Did you get any orders from him at any time?

(Zielke-Court)

A No.

Q Did you discuss this matter of heart shots with Beyer?

A I don't believe so.

Q Did you personally see any shooting during the course of that evacuation march?

A The only shots I heard were fired from airplanes. I never saw anybody fire a shot from the column.

Q Did any of the members of your column return the fire of the planes?

A I didn't see it myself, but as I was in the front of the column, I heard shots being fired in front and in back and to the side of me, and I had to assume that various soldiers were firing shots.

Q Did you ever investigate whether or not that firing was directed at the planes or could it have been possible that it was directed at some of the prisoners?

A As I already said--

Q --The court isn't referring to the firing from the planes, but the possibility of firing from the column.

A As I already said, when we made a break on the 21st of April, 1945, I talked to my non-commissioned officers and I asked them whether they knew about anybody from the column firing back at the airplanes and they said yes.

PRESIDENT: Further questions by the court? Colonel Burchan.

QUESTIONS BY COLONEL BURCHAN:

Q Skierka, were the regulations covering guard duty in 1940 ever revised after that time?

A I don't know because the guard regulations which I knew were the old ones which were in existance before 1938, they were the same ones.

Q They were still being used at the end of the war, that is, 1945?

A I never heard that they had been changed any.

(Skierka-Court)

Q Do you know what kind of ammunition the guards on this column were carrying?

A Rifle ammunition. The guards were equipped with various kinds of rifles.

Q Did you inspect any of the ammunition?

A All I saw was that ammunition which was distributed in the camp of Flossenburg itself.

Q What kind of ammunition did they use in Flossenburg?

A That was the ordinary ammunition for the individual rifles.

Q Did you ever inspect that which was in use in the common carbine which was used by the German army?

A Yes.

Q Do you know what model of ammunition they were using in Flossenburg?

A For the German rifles, it was model 98.

Q What year was that ammunition made, do you know?

A There was rather old ammunition from the year 1940, and there was new ammunition from the year, 1944.

Q What kind of jacket did the bullets have?

A They had steel jackets and also copper. At any rate, they had a yellow appearance.

COLONEL BURCHAM: That is all.

QUESTIONS BY THE PRESIDENT:

Q Who took the responsibility for placing the guards around the prisoners at the time of these night breaks?

A Sergeant of the SS, Klasen.

Q Did he do that on every occasion?

A I know that he did it on the first break we made at noon on the 20th of April, and the evening of the same day, and the evening of the next

(Kierka-Court)

day. I don't know of other occasions.

Q Were those guards ever inspected while on duty?

A Yes, they were checked by the sergeant.

Q Were they ever checked by an officer?

A No.

Q Was that the usual German custom for the non-coms to do all the checking of the men on guard duty?

A The officers or non-commissioned officers which are designated by the commanding officer, carry out these inspections.

Q You mean to imply to the court that these guards on this column, though there were two officers present, were never inspected by an officer on any occasion?

A I never inspected the guards and I never saw Meyer inspect the guards because we never had any order to do that.

Q That was the usual custom of the German Army, is that the idea?

A No, but during time of war, I know that in the camp of Vlessenburg itself, in spite of the fact that officers were there, the commandant would order non-commissioned officers to do the work of officers.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY COLONEL KURCHAN:

Q Skierka, you were doing troop duty in an engineer outfit in Russia, weren't you?

A Yes, I was ordered to Russia to help with the building of railroads and positions, but the main thing I had to do was administrative duty. I had to do work in the office and see to it that material was received.

Q Did you make any marches with troops?

A In Russia I was not a leader of any troops, although we did make the return march, but at that time, I did not have command of any troops.

(Skierka-Court)

Q Did you ever mark the route of that march?

A Well, we had to get through one way or another because the Russian tanks often surrounded us and we had to get through any way we could. It was not an orderly retreat on any occasion.

Q Did you ever mark the route on that march?

A Yes.

Q Did you act any different on that then you did on the Flossenburg evacuation march?

A No.

Q You were conforming to the training you had had on both occasions then, is that right?

A Well, we were being chased and it was up to each individual one to see to it that he got through.

Q You still haven't answered my last question.

COLONEL BURCHAM: Reporter, please repeat my last question.

(Whereupon the question was read by the reporter.)

WITNESS SKIERKA: I acted according to the orders which I had received.

QUESTIONS BY COLONEL BURCHAM:

Q That is common practice for all soldiers in the German armed forces, is it not?

A Yes, that he comply with the orders he receives.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL SMILY:

Q When was it that you lost your power of command?

A I had already lost it when we returned from this march which we had made on the 16th of April.

Q How did you lose it?

(Skierka-Court)

A 2nd Lieutenant Albert ordered me to come to him and on this occasion, he made the order that from then on I didn't have anymore to do with the company and that I would stay at his disposal.

Q Were you told directly that you were not to give any commands whatever?

A I was told that I was at the disposal and disposition of 2nd Lieutenant Albert.

Q You assumed from that that you had lost your power of command, is that right?

A Yes.

Q Did you inquire about that power of command from Koegel, or anybody?

A No, since I didn't have anything else to do with the company, I had to assume that I didn't have anymore a power of command.

Q But you still wore the insignia of a 2nd Lieutenant of the SS, did you not?

A Yes.

Q You never mentioned to Koegel or Baumgartner or to anybody about wearing that insignia and not having any power of command?

A Since 2nd Lieutenant Albert was the chief of the battalion, I had to do what he ordered.

Q Suppose he ordered you to go out and shoot somebody, what would you have done?

A I wouldn't have done it.

Q Just what were your duties on this march?

A Lt. Colonel Koegel had given me the order to show the first column the route, and to direct what bivouac areas should be taken over when he wasn't there.

Q And he told you otherwise to leave that column alone, is that right?

(Skierka-Court)

A No, he did not say that.

Q Supposing you had seen a guard shoot a man on that march, what would you have done?

A If I had seen that, I would have reported the guard to the commandant.

Q But you would not have taken any action at that time, is that right?

A As I said, I would have reported the man to the commandant and I would have seen to it that this man's rifle would have been taken away from him.

Q If you had no power of command, how could you take any action against a man?

A I would have done that on my own because I wouldn't have tolerated anybody being shot to death.

Q Then you would have assumed command, is that right?

A Yes, I would have taken over power of command then.

Q But you had no occasion at any time during that march to take over power of command, is that right?

A I never saw any case where anybody was shot to death.

Q There were never any untold incidents or any occasions for you to take over that power of command that you had lost, is that right?

A No, there was no untold incident, I didn't see any.

QUESTIONS BY COLONEL BURCHAM:

Q Do you remember the manual covering the principles of war that was in use in 1940?

A No.

Q You never read the principles of war governing the actions with regard to the German armed forces?

A No.

Q When were you commissioned?

(Skierka-Court)

A On the 20th of October, 1942.

Q Did you undergo any examination prior to that commission that you received?

A I took the training examination.

Q The principles of warfare were not mentioned in that training examination that you took?

A I have no idea what is in that book.

QUESTIONS BY COLONEL SKIELVIG:

Q Skierka, you previously stated, I believe, that when you gave up your power of command, that you were to hold yourself at the disposal of Lieutenant Albert, is that correct?

A Yes.

Q Where was Lieutenant Albert during this march?

A I don't know. He wasn't with the first column. According to what he told me previously, he was with the fourth column.

Q If you were to hold yourself at his disposal, what were you doing out marking the route?

A I had to stay at his disposal in the camp of Fleissenburg.

Q After you got out from under his power, didn't you get back your power of command again?

A As I said, the only order I got was from Lt. Colonel Voegel and that was to show the route to the first column and I stuck to this order.

Q But you didn't get back your power of command?

A In no shape or form did I receive any power of command over any prisoners or guards in the column.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q In response to the questions by the President, you stated that the

officers present in the first column were Koegel, Baumgartner, Beyers and yourself, is that correct?

A Yes.

Q It is my recollection that on direct examination you mentioned an officer by the name of Fischer being present, is that right or wrong?

A Fischer was this doctor, Lt. Colonel in the SS. I didn't mention him.

MR. O'CONNOR: That is all.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did Koegel go back and forth along that column, you say he was in command of it?

A He would drive alongside the column. He would drive back and then he would drive up to the head of the column again.

Q Why was it that the non-commissioned officers did not consult with Koegal instead of consulting with you, if Koegal was in command of the column?

A At what period of time?

Q At any period of time.

A They could only consult with him when he was at the quarters. When he was in motion, underway, he only spoke with isolated soldiers and non-commissioned officers.

Q At that time, why didn't they consult with him about this mix-up in the head and heart shots?

A At that time, he wasn't present. He had already sent a messenger to the column.

Q Had these guards been instructed prior to this time to shoot through the head?

(Skierka-Recross)

A I don't know of any such order.

Q Well, they were all shooting through the head, were they not?

A I didn't see any shots in the head being fired.

Q Did you hear about it?

A No, I didn't hear about it either.

Q What was the occasion of raising the question of head and heart shots then?

A Because the order which the messenger had brought and which Sergeant of the SS Zielke had brought back was not clear.

Q Well, certainly a situation like that existed prior to the time that this ambiguous order was brought back, is that not so?

A I didn't understand that question.

Q Before this ambiguous order was received there was a condition of shooting through the head, that existed, to give rise to this order, was there not?

A I don't know whether any shots in the head were fired because I didn't see any dead bodies with shots in the head.

Q Didn't you hear about it either?

A No, I didn't hear about it. The first time I heard about it was when this order came up. The Lt. Colonel must have seen bodies lying with shots in the head before he gave this order.

Q Was it not strange that this condition should have existed prior to that time that gave rise to this order if it had not been the custom to shoot through the head?

A I didn't see any such condition.

Q I did not ask you that. Now answer my question.

A Yes, but I didn't see any unusual condition because I didn't see any dead bodies with shots in the head.

(Skierka-Recross)

Q And it never aroused your curiosity that you should have received this type of order, is that correct?

A As I said before, I was trying to get definite information about this order, exactly what the order said, but in the evening when I asked the Lt. Colonel about it, he let me stand there.

Q When you were in Neuenhammer you went back to the end of the entire column, did you not?

A No.

Q You did not go back to the end of this group of men who were known as the first column?

A I was not at the end of the column. I was standing on the street and the column marched across the meadow to take its quarters.

Q After the tail end of that column passed by, this group of camp policemen came by, did they not?

A The camp police were split up among the other guards and they were marching at the head of the column as well as at the end of the column. There was not any special group of camp police there.

Q When the tail of this column marched by you, the head of Trommer's group came up, did it not? That is, at Neuenhammer?

A I didn't understand that name.

Q Who was the man that organized this group of prisoners into combat teams?

A What group?

Q What group was Kuefner in?

A Kuefner belonged to the combat team, Trommer.

Q As the tail of the column passed by you at Neuenhammer, this group that Kuefner was in came into your vicinity, did it not?

A No.

(Skierka-Recross)

Q You did not see that group at Neuenhammer that day?

A No, Kuefner himself had said that he left Flossenburg behind the fourth column, and the first column had already had its break around 1 o'clock in the afternoon in Neuenhammer. The fourth column didn't leave Flossenburg until the afternoon of the 20th of April.

Q This was late in the evening that Kuefner was there with you at Neuenhammer, was it not?

A In the late evening I was not in Neuenhammer anymore, I was in Saubererieth.

Q Where were you at around 7 o'clock that evening?

A I was between these two villages of Meeshach and Saubererieth and then around 7 o'clock I was already in Saubererieth.

Q You were travelling on a light motorbike, were you not?

A I was not on any motorbike. The only kind of vehicle I was on was a bicycle which is motivated by your feet.

Q Now when you were in Russia, you had charge of the troops there that guarded the slave laborers that built these bridges and fortifications, did you not?

MR. O'CONNOR: If it please the court, I object to the question as it is improper recross examination as it goes beyond the scope of the direct examination.

PROSECUTION: This matter was brought out by a member of the court, what he had done in Russia.

MR. O'CONNOR: Questions by the court are entirely different than questions by the prosecution. Perhaps the court is not limited in its scope with respect to interrogation of the witness, but I think the counsel of the prosecution ought to be.

PRESIDENT: Can you indicate to the court, Mr. Prosecutor, the materiality of this question?

(Skierka-Recross)

PROSECUTION: It goes to his credibility. He told the Colonel here that he didn't have charge of any troops at all there and as a matter of fact, based on other information, may it please the court, we expect the evidence will show that he was in charge of troops who were guarding slave laborers that built bridges and fortifications in Russia.

PRESIDENT: The court understands that you are basing your question on the credibility of the witness.

PROSECUTION: Based on former statements that he made in answer to questions of the court.

PRESIDENT: Objection of defense counsel, Mr. O'Connor is overruled.

WITNESS SKIERKA: I never had command of any troops in Russia. I was working in administrative matters and besides that, where we were building these fortifications, there were no prisoners employed.

PROSECUTION: No further questions.

PRESIDENT: Further questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL, SKIERKA:

Q Can you explain, Skierka, how it was that Gautsch happened to be present at Neuenhammer and heard you give these guards orders at the break and yet you have previously stated that both he and Kuefner were transferred to the unit Trommer, and you say that Kuefner was not present either?

A Gautsch was not assigned to the column or division of Trommer.

Q You previously stated, I think the record will show, that both he and Kuefner were transferred to the unit of Trommer and both took the oath of allegiance to Hitler on April 18th. In fact I think you will find the record shows that that was one of the reasons why you said both Kuefner and Gautsch did not know what went on on this evacuation march so far as you were concerned.

(Skierka-Court.

A I said that on the 18th of April, the entire camp police was sworn in, that is, [illegible] as well as Kuefner. At that time a hundred men from the camp police were assigned to the combat team of Trommer and Kuefner was among these hundred men.

Q And [illegible] was not?

A No, [illegible] was not among them.

Q Now you are sure you did not say in your previous testimony that both Kuefner and [illegible] belonged to Trommer?

A I said that Kuefner had been assigned to the combat team of Trommer.

QUESTIONS BY COLONEL BURGHAM:

Q Were these guards the ordinary run-of-the-mill riflemen or were they particularly expert?

A I would like to say that, for the most part, they were men who had not had sufficient training. The camp police for example had not had any training in shooting at all. They had shown them how to operate their weapons but they hadn't shot them. The rest of the guards consisted of soldiers from all kinds of units, from the Navy and from the airforce, and from the emergency militia battalion. They had been drawn in and drafted and placed at the disposal of the SS.

Q At what distance can an untrained rifleman, such as that, hit a man in the head, if the man is fleeing from him?

A He probably would very seldom hit anybody who is running.

Q How far could he hit the escapee, if the escapee were stationary?

A I cannot allow myself to make any decision about how these men would hit their targets, because I never saw them do any shooting.

Q This is more or less hypothetical. How far could you hit a target, the size of a man's head?

A At 50 meters.

(Skierka-Court)

Q And if the target were moving?

A I never shot at moving targets yet.

QUESTIONS BY THE PRESIDENT:

Q Did you see [redacted] at any time during this evacuation march?

A Yes.

Q Where did you see him?

A I saw him at noon of the first day.

Q That is the only time you saw [redacted]?

A I saw him on the second day also, around noon.

Q Any other time?

A I didn't see him at any other time.

Q Then the court understands you saw [redacted] on both the first and second days of the evacuation march, is that true?

A Yes.

Q Did you see Kuefner at any time during the course of the evacuation march?

A I did not see Kuefner at any time during the entire march.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Did you see [redacted] by the village of Winklarn at any time during the evening?

A That was on the second day toward noon.

Q Did you see him again between 8 and 9 o'clock in the evening?

A No.

Q How far is it from Neuenhammer to Sembererieth? Please estimate it in kilometers.

A I estimate 15 kilometers.

Q Approximately how long did it take the column to march from Neuenhammer to Sembererieth?

A More than four hours.

MR. O'CONNOR: That is all.

MR. HALL: I have a few questions.

PRESIDENT: Proceed, Mr. Hall.

QUESTIONS BY MR. HALL:

Q Mr. Skierka, is it possible that Pinter and Pens, who were PFC's, had a greater power of command than you did on this march?

A Pinter and Pens could not have had any power of command at all.

Q Now as I understand these conferences with the NCO's, it was your interest to see that things ran smoothly.

A Yes.

Q When you heard these various shots being fired, did you consider that things were then running smoothly?

A What shots, please?

Q Any of the shots that you have discussed.

A I only heard that people were supposed to have fired shots at this airplane.

Q Did it ever occur to you that some of these untrained soldiers might have gotten some bad rumors, that you talked about?

A I heard malicious rumors when I was in captivity. I heard rumors that Lt. Colonel Koegel was supposed to have given the order that prisoners be shot to death.

Q You have only heard that since you have been in captivity here in Dachau?

A Noo I heard it in the camp I was in before this, but I didn't have it verified until I got here in this courtroom.

MR. HALL: That is all.

PRESIDENT: Recross, prosecution?

PROSECUTION: Nothing further.

(Skierka-Redirect)

PRESIDENT: Any further questions by members of the court? Apparently not. Anything further from the defense?

MR. O'CONNOR: No sir, not at this time. I may offer something later in evidence.

(Discussion off the record.)

PRESIDENT: The court understands then that the defense is finished with this particular witness.

MR. O'CONNOR: Yes, sir.

PRESIDENT: Skierka, the court will give you an opportunity to make any explanation to the court or any statement that you see fit at this time.

WITNESS SKIERKA: I would just like to say that if Lt. Colonel Koegel had designated me as the one in charge of the first column, then he would have simultaneously made me be present with the prisoners when they were leaving the gate of the camp, so that I could take over my prisoners. Even the prosecution witness, [illegible], maintains that I was not present when the commandant swore in the guards of the first column for the march, and that I was not present when he gave directives and orders to the officers of the first column. [illegible] explained, of course, later on that that had been a 1st Sergeant. If Lt. Colonel Koegel had not had a special interest in the first column and had not given orders to this first column, then he probably never would have spent the night in quarters which were assigned to the first column because the first column didn't always stay at the head of all the columns, but sometimes it was in the place of the 2nd or 3rd column. I saw with my own eyes how Lt. Colonel Koegel and 1st Lieutenant of the SS, Baumgartner, gave orders to various people they met on the road, on their way. [illegible] here calls me a liaison man between Koegel and the men who had this first column under their charge. I don't have anything else to say.

PRESIDENT: The witness will be excused and will resume his position in the dock.

(Whereupon the witness was excused and resumed his seat in the prisoner's dock.)

PRESIDENT: Court will adjourn until 1:30 this afternoon.

(Whereupon the court recessed at 1200 hours.)

Ta 684 12-16-46
rls/1 Floss

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Posch, Ammelt and Lipinski, who are ill and whose interests are being taken care of by counsel.

Any spectators in the courtroom who expect to be called as witnesses in this case will please leave the court.

PRESIDENT: Defense?

DEFENSE COUNSEL: May it please the court, the defense at this time renews the offer of Court Exhibit 5, a document marked Court Exhibit 5 for identification. This document was previously offered but not accepted, on 20 November. It is the record of a Military Government trial of the witness, Adolf Muefner. In respect thereto the court directed Defense Counsel to write a letter asking for further information. Such letter was written on 25 November, signed by the President of the court, and to date no reply has been received thereto.

PRESIDENT: The court understands, Col. Wilson, that no reply has been received to the court's letter dated 25 November 1946.

DEFENSE COUNSEL: That is true so far as I am informed. It has not come to my attention.

PRESIDENT: Prosecution?

PROSECUTION: I object to it on the same grounds that were previously assigned - that it shows on its face that it is not a complete record of trial, and on the further ground, may it please the court, that we have an order of

disapproval on review.

DEFENSE COUNSEL: The defense has not been informed of this order of disapproval until this moment.

PRESIDENT: Do you want a few minutes to consider the matter, Colonel?

DEFENSE COUNSEL: Yes.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

DEFENSE COUNSEL: May it please the court, the defense requests the reporter to mark for identification Defense Exhibit No. 69, a certain document headed, "Military Government, Germany, Form I-P6", referring to Adolf Kuefner, which exhibit is to the effect --

PROSECUTION: Read it now, please.

(The document referred to was marked Defense Exhibit No. 69 for identification.)

DEFENSE COUNSEL: You want it read complete?

PROSECUTION: Yes.

DEFENSE COUNSEL: With permission of the court, I will read the exhibit which is in English and German. I will read only the English.

(Whereupon the defense read Defense Exhibit 69 for identification, as follows:)

"MILITARY GOVERNMENT
GERMANY

ORDER FOR RELEASE OF PRISONER

To: Officer in charge of Strafgefangnis St. Georgen
On this 13th day of January 1946
the case of Kuefner Adolf
Prison Number 2225/46

now in your custody, was reviewed, and it is ordered that the said prisoner be released forthwith

Signed William T. Sleeper
WILLIAM T. SLEEPER
2nd Lt. AUS

Distribution:
1 copy to "Institution of confinement through G Det
1 copy to SHGO"

DEFENSE COUNSEL: The defense now offers the foregoing exhibit, No. 69, and requests that it be attached to Court Exhibit 5 previously mentioned, for consideration in connection therewith. The defense is taking the position that this defense exhibit 69 indicates that Kuefner served all except a few days of the sentence indicated by legal for No. 11 a, which is a part of Court Exhibit No. 5.

PRESIDENT: Anything further, Mr. Prosecutor?

PROSECUTION: The only thing I object to, may it please the court, is the assumption that Court Exhibit 5 will be admitted in evidence. I do not object to this document which has been marked Defense Exhibit 69 being introduced in evidence. I do not object in any way to the exhibit being marked and introduced as a defense exhibit, but so far as being attached to Court Exhibit 5 is concerned, I do object to that.

PRESIDENT: Defense.

DEFENSE COUNSEL: The exhibit which has been marked for identification as Court Exhibit 5 was obtained by direction of the court, as evidenced by a letter signed by the president of the court dated 25 November 1946, which was part of Court Exhibit No. 5 for identification.

PROSECUTION: May it please the court, the mere fact that it was done at the court's direction, of course, does not ipso facto mean that everything with respect to the efforts on the part of counsel to obtain that particular document for the court makes it in proper form. The objection heretofore made was that the document that was obtained by the defense counsel at the direction of the court shows on its face that it is not a complete record.

PRESIDENT: Anything further, defense?

DEFENSE COUNSEL: The court, on 25 November 1946 directed the officer furnishing Court Exhibit 5 for identification to furnish further particulars as indicated and set forth in a letter signed by the president of the court on 25 November 1946, to which, as I have said, there has been no reply.

PRESIDENT: The objection of the prosecutor to introducing Defense Exhibit 69 a a part of Court Exhibit No. 5 is sustained. The court understands, Mr. Prosecutor, that the prosecution has no objection to the introduction of Defense Exhibit No. 69 as a separate exhibit?

PROSECUTION: That is correct.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive Defense exhibit No. 69 and give it such weight as the court sees fit.

MR. O'CONNOR: I should like to make an objection to the introduction of Exhibit 69 unless Exhibit 5 is in as a court exhibit.

PRESIDENT: Mr. O'Connor, the court has already ruled on that. The defense has had sufficient time to put any additional objections in. The ruling has already been made. The matter is in the record, in other words, Court Exhibit No. 5 is in the record for identification.

(The document heretofore marked Defense Exhibit 69 for identification was received in evidence and attached hereto as Defense Exhibit 69 and made a part of the record.)

MR. O'CONNOR: Has the court made a ruling on the admissibility of Court Exhibit No. 5?

PRESIDENT: The court will do that immediately. Subject to the objections on the part of any member of the court, the court will not receive Court Exhibit No. 5 in evidence at the present time. In other words, the objection of the Prosecutor to Court Exhibit No. 5 being introduced in evidence at the present time is sustained. The position of the court is exactly the same as at the revious time Court Exhibit No. 5 came up for introduction in evidence. As indicated previously, the court felt that Court Exhibit 5 was not a complete record of the case as indicated. Now, if at any future time, Col. Wilson, before the court comes to a finding and sentence, any material evidence is available with respect to Court Exhibit No. 5,

the court will receive it. The court appreciates the fact that the defense has made endeavors to get certain material evidence with respect to Court Exhibit No. 5 but up to the present time the situation has not changed.

DEFENSE COUNSEL: May it please the court, the defense respectfully requests the court to use its authority to obtain an answer to the letter of November 25th which is over the signature of the court, not over the signature of any counsel.

PRESIDENT: Col. Wilson, the court will be glad to entertain a summons relative to the custodian of the record in question to summon him to appear before this court.

DEFENSE COUNSEL: Yes, sir.

PRESIDENT: Court will take a short recess in place.

(Thereupon the court recessed in place.)

PRESIDENT: Court will come to order. Defense.

DR. WACKER: I offer now a letter of Dr. Ehrlich. I offer that as material proof for identification purposes.

(Whereupon the document referred to was marked Defense Exhibit 70 for identification.)

PRESIDENT: Any objection on the part of the prosecution?

MR. BERKOWITZ: If it please the court, we haven't had time to examine it.

PRESIDENT: Court will take a short recess in place.

(Thereupon the court recessed in place.)

PRESIDENT: Court will come to order.

DR. WACKER: I would like to offer this letter now as proof for identification. It concerns a letter from a Dr. Ehrlich who is in the Russian Zone and who has made this affidavit for Schwarz.

PRESIDENT: Any objection on the part of the prosecution?

MR. BERKOWITZ: Yes, sir. The prosecution objects to the introduction of this letter on behalf of Schwarz on the grounds it is full of conclusions and invades the province of the court. There is no evidence in the document

itself as to the source of knowledge of Dr. Ehrlich, what kind of doctor he was, whether he was ever in the camp, when he was there, what his opportunities of observation were. It is full of conclusions: "he took care of everything, he had a thorough understanding, the mortality could not be charged upon Mr. Schwarz", without evidence to state the basis for these conclusions.

PRESIDENT: Anything further, Mr. Prosecutor?

MR. BERGOWITZ: Nothing further.

PRESIDENT: The court understands this document was submitted by a Dr. Ehrlich who is in the Russian Zone at the present time?

DR. WACKER: This letter is from Dr. Ehrlich who is now in Saxony in Geringswalde. I believe that this affidavit was verified by a notary public, Dr. Willy Schumann in Chemnitz.

PRESIDENT: Mr. Prosecutor, the court will give full consideration to the matters you mentioned in due course of time, when the court has the opportunity to peruse this particular document. That really is a matter for the court to decide. Subject to objections on the part of any member of the court, Defense Exhibit 70 will be received by the court and given such weight as the court sees fit.

(Whereupon the document heretofore marked Defense Exhibit 70 for identification, was received in evidence as Defense Exhibit 70 is attached hereto and made a part of the record.)

DR. WACKER: May I read that now?

PRESIDENT: Proceed. Just a minute. You plan at this time, Doctor, to place before the court Defense Exhibit 70 a, the translation?

DR. WACKER: I now offer the English translation as Defense Exhibit No. 70 a.

(Whereupon the document referred to was marked Defense Exhibit 70 a for identification.)

PRESIDENT: Any objection on the part of the prosecution?

MR. BURKETT: No objection.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive in evidence Defense exhibits 70 and 70a and give them such weight as the court sees fit.

(Thereupon Defense exhibits heretofore marked 70 and 70 a for identification, were received in evidence as Defense exhibits 70 and 70 a, are attached hereto and made a part of the record.)

(Thereupon the Defense read Defense exhibit 70 followed by a reading of Defense exhibit 70 a, the English translation of the letter from Dr. Ehrlich, by the interpreter.)

"Dr. med. G. EHRLICH
Seringswalde / Saxonia
Bahnhofstrasse 16

Seringswalde, on 2 November 1946

In response to the letter from Mr. WACHER, LLD, Attorney at law, Stuttgart, dated 6 October 1946, concerning SS-Capt. SCHAHZ Commander of the out-camp Nerabruck, I give the following declaration in lieu of an oath:

Mr. SCHAHZ took care of everything in the camp and made himself sure about the condition of the barracks, the food, clothing etc. He accepted all proposals for reforms made on medical part, and tried with the means at his disposal, to procure relieves for the prisoners.

He had a thorough understanding for the provision and securement of more blocks for the housing of the sick and of those needing convalescence. He also made a point of the construction of a new dispensary. That this dispensary was only short before completion when the camp was evacuated is to be blamed upon the difficulties in procuring materials.

The mortality in the camp can, in my opinion, not be charged upon Mr. SCHAHZ. Part of the prisoners arrived at the camp already in a weakened state of health and had little resistance to diseases.

Mr. SCHAHZ tried hard to keep up the prescribed rations for the prisoners which at times was made rather difficult by the prevailing shipment conditions. He often looked after the preparation of meals and the cleanliness in the kitchen.

I don't know anything about forced cases of death (slayings).
For the evacuation march it was forbidden to shoot prisoners unable to march. SCHAHZ repeatedly made this known to the guard personnel. It happened that sick and diseased who were unable to march were left behind under guard.

During an air attack upon a marching column, whereby a certain number of prisoners were fatally and seriously injured, SCHAHZ personally

Ta 684 11-16-46
File/8 Floss

endeavored after the transportation of the injured and fetched vehicles, while [illegible] for their admittance into the next hospital.

/s/ Dr. Gerhard EHRLICH

U.R. 2[illegible]/1945

The foregoing signature of Dr. Gerhard EHRLICH, personally known to me, living at Doringswalde, [illegible]strasse 1[illegible] was made in my presence and is hereby attested to.
Chemnitz, on 5 November 1946

Seal /s/ Dr. Willy SCHUMANN
Notary

Fees: etc.
/s/ Dr. Willy SCHUMANN, Notary
Seal.

I, Hans E. LUER, being first duly sworn, state that the foregoing is a true and correct translation of the declaration of Dr. med. EHRLICH, given at Doringswalde, on 2 November 1946, the signature confirmed by Dr. Willy SCHUMANN, Notary at Chemnitz, on 5 November 1946 made to the best of my ability.

/s/ Hans E. LUER
Translator, Dachau Detachment
7708th War Crimes Group

Subscribed and sworn to before me at Dachau, Germany, this 27th day of November 1946.

/s/ Rudolf SCHUELLER
U. S. Civ. CAT - 7
Chief, Translation Section."

MR. BERGER: If it please the court, I ask that the word "med." be stricken from the affidavit of Hans E. Luer, since nothing appears on the declaration itself to show he is a doctor of medicine. I don't know whether that is a letterhead or just at the top of the page. There is nothing in the declaration itself, not in the copy I have.

PRESIDENT: Overruled.

DR. SCHERR: I beg that this objection be denied because you can tell by looking at the oath which was given by the notary who was present. Under German law it is punishable by law if somebody pretends to be a doctor of medicine and really is not, if he goes to a notary. Beside that I beg the court to look at the record where the name of Dr. Ehrlich has appeared a number of times.

[illegible] to the court there is nothing in [illegible] relevant to [illegible] a matter of medicine. [illegible] statement before the declaration [illegible] only above [illegible].

[illegible]

[illegible] the court [illegible] the next witness [illegible] [illegible].

[illegible] office.

(Thereupon the court [illegible].)

[illegible] like [illegible] the fact that relative [illegible] 7, [illegible] translation [illegible] the original [illegible] exhibit 70 indicate that [illegible] Barkers [illegible] was [illegible] exhibits 70s, that [illegible]. The court [illegible] at the recent time [illegible] exhibit [illegible] 70 [illegible] corrected accordingly [illegible] fact that it [illegible] an exact translation. [illegible] the court will [illegible] the matter of [illegible] exhibit 70 [illegible].

[illegible] following the statement of the affidavit

[illegible] short recess.

(Thereupon the court [illegible].)

[illegible] The court will [illegible].

[illegible] witness [illegible] received, [illegible].

[illegible] the court [illegible] [illegible] to take [illegible]

[illegible]

[illegible]

ERICH PENZ, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q State your name, please.

A Erich Penz.

Q What is your nationality?

A Yugoslavian.

Q When were you born?

A The 19th of December 1924. In three days I will 22 years old.

Q Where were you born?

A In Roumania, Kalafet.

Q You were a member of the SS, is that correct?

Yes.

Q When did you become a member of the SS?

A On the 1st of February 1943.

Where were you at that time?

A In Hamburg Neuengamme.

Q Where had you been prior to that time, immediately prior to that time?

A Before then I was home.

Q How did you happen to get into the SS?

A On the 6th of January 1943 I got a draft order and it had the following contents: You, Erich Penz, are to report on the 6th of January 1943 to the SS Draft Office, Gross Veaschkak.

Q What efforts had you made prior to the receipt of that notice, toward getting into the SS?

A None at all.

Q In what manner did you go from your home to Hamburg Neuengamme in compliance with this notice?

(Penz-direct)

A We were accompanied to Hamburg in a cattle car, in a train.

Q Who accompanied you?

A A doctor, a medic, a top sergeant and ten guards.

When did you arrive at Flossenburg?

A The 10th of the 8th month, '44.

Q To what duties were you assigned?

A As a dog tender.

Q Is dog tender about the same thing that Finger described when he was on that stand?

A Yes.

Q I call your attention to this watch incident that has been discussed from time to time. Do you have anything to add to that?

A No.

Q You were placed in confinement in connection with that incident, is that correct?

A Yes.

Q When were you released from confinement?

A On the 16th of April 1945.

Q When were you placed in confinement in connection with that watch incident?

A The 14th of January 1945.

Q Upon your release from confinement, to what duties were you assigned?

A We were released from arrest on the 15th of April in the morning at 8:00 o'clock and we had to report to the clerk's office to the top sergeant and we were distributed to the various companies. And I was distributed to the Third Company and at the same time we got an order to pick up guns and ammunition and we all did that.

Q Then did you take that march out into the woods with the SS and camp police which has been discussed here?

A Yes.

Q When did you come back from that search?

A The same evening in the night at 10:00 o'clock.

Q To what duties were you assigned after that?

A We didn't have any duties at all until the 20th of April.

Q The 20th of April when?

A '45.

Q Then what happened on the 20th of April 1945?

A On the 20th of April, 1945 the commandant, Lt. Col. Koegel held a roll call.

Q Prior to the roll call on that particular day, what had you been doing?

A Nothing at all.

Q Where were you when you first received notice of that roll call?

A I was present.

Q Present where?

A I was present at this roll call.

Q I mean, where were you before you went to this roll call?

A In the company.

Q Describe the events that happened from the time you were in the company and leading up to the roll call place.

A The non commissioned officer on duty blew his whistle and the company had to fall in for roll call. We all had to fall in and get in line in the open square in front of the commandant's office and we formed a square.

Q You say "we formed a square". Whom do you mean by "we"?

A The guards and the camp police, non commissioned officers and officers.

Q At the time you arrived at the roll call square where was Koegel at that time?

A At the time Koegel was not present. He came later.

(Fenz-direct)

Q Do you know the accused, Skierka, who appeared on the stand before you?

A Yes.

Q Do you know where he was at that time?

A He was present.

DEFENSE COUNSEL: If it please the court, the defense requests permission to withdraw the accused, Mohr, No. 28 for conference.

PRESIDENT: Granted.

QUESTIONS BY DR. HALL:

Q What happened when Koegel arrived?

A The whole guard battalion had to stand at attention and an officer reported to the Commandant that everything was all right.

Q There was Lt. Baumgartner who has been discussed in this case?

A He was present also.

Q What happened then, after the outfit had been reported to Koegel?

A Koegel said, "At ease" and then he made his orders known, held a speech.

Q What did he say in his speech?

A First of all he said that on this day, the 20th of April, the camp would be evacuated.

Q When was the first time that you learned that the camp was to be evacuated?

A When the Commandant said that on the 20th of April.

Q About what time was this?

A It was between 9:00 and 10:00 o'clock in the morning.

Q Continue with what the Commandant, Koegel, said in his speech.

A First of all, today, the 20th of April, the camp will be evacuated and secondly, the conduct of people during the transport.

(Henz-direct)

Q What do you mean "people"?

A Guards.

What did he have to say about that?

A He didn't say anything else about it, he merely said, "conduct during the transport", everybody knew what he meant.

What else did he say?

A Thirdly, prisoners who were escaping or SS men who are leaving the column are to be shot to death immediately without calling to them as warning. Fourthly, no prisoners would be allowed to fall into the hands of the enemy alive. That's all he said.

What happened after the meeting?

A We fell out and our company had to fall in again by itself and we were told we should get ready for the transport.

Q Then what happened?

A In the afternoon between 1:00 and 2:00 o'clock we marched in front of the prisoners' gates.

Continue.

We had to fall in in ranks and files, one row to the left and one row to the right and the prisoners marched in between these two rows in groups of 50, and then they were led out in groups of 100 men.

MR. BERKOWITZ: Did he say "groups of 50"?

THE INTERPRETER: That is what I heard.

QUESTIONS BY MR. HALL:

Q How many prisoners were together in one group?

A 100 men.

What do you estimate to be the total number of prisoners on this march?

A I estim to 3000.

(Cross-direct)

Q What is your best judgment as to the number of guards with reference to these groups of 100?

A Four guards for each 100 men, two to the right, two to the left.

Q You started on this march on the 20th of April 1945. How long were you with the march column?

A I stayed with this column until the 24th.

Q I call your attention to the period of time from the 20th of April 1945 to the 22nd, including the 22nd of April 1945. In which part of the entire column did you march?

A I was performing the duty of a side guard

Q With reference to the head and tail of the column, which part of the column were you marching in during that period of time.

A In the first third of the column, up front.

Q When did you cease marching in the first third of the column?

A On the 24th.

Q Where were you marching on the 23rd?

A I was still marching at the side on the 23rd.

Q And which part of the column?

A In the first third of the column, up front.

Q Describe the circumstances under which you changed positions in the column, that is, with reference to the first third or other part of the column.

MR. BARKOWITZ: That is objected to. There is no evidence he did change positions.

MR. HALL: I withdraw the question.

QUESTIONS BY MR. HALL:

Q Did you always remain in the first third of the column?

MR. BARKOWITZ: Objected to as leading.

(Penz-direct)

MR. HALL: I withdraw the question.

CROSS EXAMINATION BY MR. HALL:

Q Did you march at any place other than the first third of the column?

A I didn't always stay in the first third. I would stay with one group of 100 men up front or one group of 100 men farther back.

Q You stated that you marched in the first third of the column up to the 24th of April 1945?

A Yes.

Q Where did you march thereafter?

A In the back.

Q Please describe the circumstances leading up to that change of position from the first third to the back.

A On the 23rd of April 1945 in the evening about four kilometers over to the right side of Chau we stopped and made biv ouac. I, Winter, and two other comrades were standing in a side street with our baggage.

PRESIDENT: Court will take a half hour's recess.

(Thereupon the court at 1500 hours recessed until 1530 hours.)

(Fone-direct)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

MR. TRONITZ: If the court please, may the record show all the members of the court are present; all the members of the prosecution are present, with the exception of Mr. Denson and Mr. Pinter, who are absent on business of the prosecution; all the members of the defense are present, with the exception of Mr. Wacker, who is absent on business of the accused; all of the accused are present, with the exception of Losch, Ewalt, and Lipinski, who are ill. The interests of the absent accused are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of direct examination.

FRICH FETZ, an accused, resumed the stand in his own behalf, and continued to make the following unsworn statement through an interpreter.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. HALL:

Q Calling your attention to the 23rd of April 1945, please continue with your discussion of the events which led up to your change of position in the column.

A We were taking a rest the evening of the 23rd four kilometers to the right of Chem on the meadow. I, Pinter, and two more comrades were standing on the right hand side of the street with our carriage. It wasn't long before the adjutant and a technical sergeant, whom I didn't know, drove up in a car. They stopped in our immediate vicinity. They got out and wanted to go down to the column. Then he saw us he came toward us. He asked us what our job was. We told him that we were guards on the side of the transport. He said, "That's all right. You four take over the special detail in the morning. Prisoners who fall are to be shot to death through the head". We said "Yes" and we removed ourselves. We went to a farm

(Fenz-Direct)

owned by a farmer.

PRESIDENT: Reporter, will you read the last answer. I want to determine who gave the order.

(Whereupon the reporter read the last answer.)

Q Who was it that stated the sailing prisoners were to be shot in the head?

A The adjutants.

Q And what is his name?

A Ma Maertner.

Q Is that the same Magartner who was seen by you at the meeting of 20 April 1945 called by Kowgal?

A Yes.

Q All right, you said you left the column then. Who left with you?

A I, Pinter and the other two.

Q Do you know who the other two were?

A The one's name was Hans and the other's name was Krautigan.

Q All right, where did you four go?

A We went to a farmer's barn to stay there overnight. When we were in the barn we agreed that we would not carry out this order and that the one who awakened first would wake the others and that we would escape. We all were very tired; we lay down and went to sleep immediately. When I woke up I sat up and I looked through the barn door—there were cracks in it and I could see to the outside—and I saw that it was daylight. I went to the door; I opened the door; and I saw that the transport was forming. I woke Pinter and I told him that the other two had gone. He cursed and he said "We will still try to escape now". We packed our things and went to the outside. It was too late. We could not undertake anything any more because there was too much traffic on the road. We agreed that we would not carry out the adjutant's order but that we would take our guard positions again as we had

(Pens-Direct)

done before. We posted ourselves with the first column. After we had been standing there for about ten minutes I said to Pinter "You, the adjutant is approaching". He came towards us; he was about ten meters away from us when he started yelling. When he was near us he asked us whether we didn't know what orders he had given us the night before. We didn't answer. He kept on scolding us and he asked us where the other two were. I said, "They are gone; they have escaped". He kept on yelling and he yelled whether we didn't know that whenever we would not carry out his orders that it was in his right to shoot us to death, and he put his hand on his pistol. He turned to the technical sergeant and he said "Take those two men to the rear. Whenever they try to escape or when they do not carry out my orders, if they do not carry out my orders you have the right to shoot them to death". The technical sergeant turned to us and said "Come along". When we arrived at the rear the column was moving. When we arrived at the rear the technical sergeant repeated the order to us which we had been given previously by the adjutant. There were two men at the rear when we arrived, a Ukranian with a black uniform, and one SS man. We asked them where they had come from and how they had gotten there. They told us that they had come from Buchenwald and that the adjutant had ordered them there. Then we started to march.

Q And what was this date?

A The 24th.

Q How long did you continue to march in that position at the rear?

A I marched at the rear until the evening.

Q And what happened then in the evening?

A In the evening we removed ourselves from the transport.

Q And what was the date

A It was the 24th.

Q Of April 1945?

A Yes.

(Pons-Direct)

Tr 685 FF
19-16-46
Page 4

Q Now, I call your attention to Prosecution Exhibit No. 43, which is the statement which has been introduced before this court signed by you.

A Yes.

Q In that statement you have said that you shot a total of five prisoners.

A Yes.

Q In what date did these events take place?

A The 24th.

Q Of April 1945?

A Yes.

Q During those incidents where was the tech sergeant when you have spoken about?

A He was behind us.

Q How did you happen to shoot these particular prisoners?

A The technical sergeant gave me the orders.

Q Describe in what manner that was done.

A Two had to walk on the right hand side and two on the left.

Q Two what?

A Two men.

Q Guards or prisoners?

A Guards, yes. I am the other guard who had come from Buchenwald were on the left side. Hunter and the other one on the right. When a prisoner was lying at the edge of the road the technical sergeant pointed out the man who was to shoot. Then he would point to him and say "It is your turn now" or "Now you'll shoot" or "Now you'll shoot". We marched until about 11 o'clock noon. At 11 o'clock we took a short break. Shortly after the break, after we had started to march again, a messenger arrived on a motorcycle. He stopped and he informed the technical sergeant that the commandant had given orders that no more head shots should be carried out but

(Pens-direct)

that from now on they should be shot through the heart.

Q How do you know he said that to the technical sergeant.

A Because we heard that. We heard it when the messenger told the technical sergeant about it and the technical sergeant repeated this order to us.

Q Do you know who this messenger was, that is, his name?

A No, I don't know the man.

Q Is there any doubt in your mind as to what that message was?

A There is no doubt in my mind.

Q All right, continue.

A Shortly after the departure I had to shoot at the first one. He pointed to me, I took my rifle from my shoulder; I went a few more steps; I turned around, and I took aim at the heart; I turned around; I cocked my rifle and continued. That was shortly before twelve; it could have been around twelve o'clock. Between twelve and one I fired at two more. Between one and four I fired at two more.

Q Now, you say you took aim at the heart. Where did the bullet hit?

A I can't say exactly; I did not observe the effect of the fire.

Q What was the position of these prisoners prior to the shooting?

A They were lying on the ground.

Q At the time of the shooting where were the prisoners with reference to where you were standing?

A The marching?

Q No, the ones who were on the ground.

A They were lying on the ground. I went past them a few steps; I turned around, and I fired.

Q What did you do immediately after firing, in each instance?

A Nothing. I again put my rifle back on my shoulder and continued.

Q What examination of the individual prisoner fired at was made after the shooting?

(Pens-Direct)

A I did not carry out any examination.

Q Who did, if you know?

A I don't know that.

Q Now, in your statement, Prosecution Exhibit No. 48, you stated "These were either Poles or Russians".

A Yes.

Q Upon what facts do you base that conclusion?

A I assumed that—I don't know—but during the first days of the march when I was a guard beside the column I heard foreign languages, Polish, Russian, or languages of that sort.

Q What language did you hear those prisoners at whom you shot speak?

A They didn't say anything at all.

Q All right, you say you left the column then on the 24th in the evening. Please describe the circumstances surrounding your departure.

A It was approximately four o'clock; it could have been between four and five. Pinter and I discussed the thing in Yugoslav language and we said that we would say that our feet were sick and that we would not go along with this any longer. At first I said to the technical sergeant that he should leave me back because I wanted to change my socks. Pinter asked him too immediately. He said that we should sit alongside the road; that we should change our socks, but that we were to come after them immediately. We sat down; we took off our shoes and our socks so that we were barefooted. But we watched the technical sergeant. He turned around every ten paces. When he was thirty meters away from us we fled to the right into the woods. After we had walked three kilometers through the woods we came upon a little village; there were only a few houses. We stayed there overnight. The next morning at about nine o'clock we proceeded. Shortly before reaching Strumbing on the Danube River there was an air raid. We walked on the road when Sergeant Zettel passed us on his bicycle. He greeted us and he asked

(Pens-Direct)

us how we were. We told him that we were fine. He did not get off; he drove right away.

Q Is that the same Sergeant Zettel who appeared before this court as a witness?

A Yes.

Q And what day was this?

A The 25th.

Q Continue.

A That day we went to Strauching and we stayed there overnight. The next day we continued, partly on foot, partly by car, to Dachau. The afternoon of the 28th, between two and three o'clock, we arrived in Dachau. We went into the camp unannounced. We were sneaking behind the barracks so no one of our own men would spot us. At about six o'clock in the evening a combat unit of approximately sixty men was activated. I and Pinter volunteered for that. At eight o'clock in the evening we left the camp. We marched in the direction of Allach. After having passed through Allach our leader, a second lieutenant, said, "Boys, there is no sense in this any more. The Americans will be here in a few hours. Those who want to go along can go along. Those who want to take off can take off". Then I and Pinter and some other comrades took off in the direction of Tirol. The first of May, eight o'clock in the evening, we voluntarily surrendered to the American Third Army.

Q First of May what year?

A 1945.

Q Have you been in confinement since that date?

A Yes.

Q You have testified concerning specific shooting incidents. Did you or did you not take part in any shootings other than those which you have just described?

(Pans-Direct)

MR. MARKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

Q I call your attention to the testimony of the prosecution witness Pinkas, Morris, who testified that in one jump prisoners jumped out of the column ten to twenty meters to get potatoes in the fields.

A Yes.

Q And that when four prisoners went out that way then you and Pinter would shoot them. Now what do you have to say about that man's testimony?

A For one thing there are no potatoes in the field in April. I know that; I am a professional farmer and I know that. Outside of that Pinkas stated that if one prisoner went out we didn't shoot but whenever four or five went out we fired. That is not right. He also states that Pinter was twenty meters distant from him and that I was twenty meters distant from Pinter. He said that Pinter and I were twenty meters distant from him but I was twenty meters ahead of Pinter. I don't get it.

Q When was the first time that you have ever seen this prosecution witness Morris Pinkas?

A I saw him here on the witness stand for the first time.

Q I forgot to ask a few preliminary questions of you once. Will you please explain very briefly what education you have had.

A I attended five public schools.

Q Well, how many years of education does that account for?

A From 1930 until 1935. Subsequently I worked on my father's farm.

Q Where is your father now?

A My father is dead.

Q What is your religious preference?

A Catholic.

Q You have not called any witnesses before this court on your behalf. Will you please explain to the court why that is the case.

(Pens-Direct)

A If I know the names of the officers, or if I know the name of the technical sergeant who guarded us on the 24th I should like to call them here and make them account for their actions. I don't know these people and I never saw them before.

MR. HALL: You may cross examine.

MR. BERKOWITZ: Cross examination, Mr. Berkowitz.

CROSS EXAMINATION

BY MR. BERKOWITZ:

Q Now, Jean, you are a Volks German, are you not?

A Yes.

Q At the time you were confined at the arrest building in Flensburg the 14th of January 1945, was Inter confined at the same time?

A I was submitted the 14th of January and Inter the next day, the 15th.

Q And you both remained in confinement for three months, is that right?

A Yes.

Q On the morning of the 20th of April when you were addressed by Kogel and when Skiorka was present, was the commanding officer of your particular column also present?

A That I can't say.

Q Who was the leader of your column?

A I can't say the name because I only saw the man once or twice during the whole march. I only know that he was tall and had a dark face. Other than that I don't remember.

Q You said there were three thousand prisoners who made up the transport. Was that the entire transport or was that just your column of the transport?

A That was the entire transport, that is to say, that was our marching group.

(Pens-cross)

Q Well, was it the entire transport--all the prisoners of the camp were three thousand in number?

A No, no.

Q Now, you said you were sent to a special detail in the rear of the column. Had you seen such a detail prior to that time?

A I didn't notice any.

Q Well, did you hear anything about it?

A I didn't hear anything about it either.

Q Did you hear any shooting behind you?

A Yes.

Q How far behind you?

A That I can't say exactly. Sometimes the shooting came from the rear, and then from all sides. The firing took place from all sides--wherever you looked.

Q Was that from ahead of you?

A Ahead of me I didn't hear anything.

Q Did you know what kind of fire that was?

A Rifle fire, machine gun fire, gun fire.

Q What kind of arms did you carry?

A Carbine.

Q What did the other guards carry?

A They also had carbines.

Q What kind of ammunition did you have?

A I had a Czech rifle and German ammunition, with steel covered bullets.

Q Did you hear fire from a carbine?

A Yes.

Q That was behind you?

A Yes.

Q Was that within your own column?

(Fenn-Gross)

A In our columns also.

Q How many corpses did you see the first day?

A As long as I went at the head of the column I didn't see any corpses.

Q On what date was it you got the order to shoot in the heart instead of the head?

A That was the 24th, shortly after eleven.

Q Isn't it a matter of fact that that order was given on the 21st, on the second day of the march?

A I don't know anything about that.

Q When did Baumgarten order you to shoot in the head?

A The evening of the 23rd.

Q Now, isn't it a fact that the prisoners frequently changed their position in the line of march so sometimes they would be a little ahead or a little behind?

A The prisoners did not change their position. It stretched once, became longer. Prisoners might have changed their position when we had a rest.

Q And didn't their positions with relation to you frequently change after each rest?

A Yes, changed after every rest.

Q Now, didn't you see storage heaps of potatoes on the fields?

A No.

Q Were there storage heaps of potatoes all along the road?

A No.

Q Didn't the prisoners try to gather food wherever they could?

A There was nothing out there; there were no potatoes out there and there were no beets out there; I wouldn't know what they wanted to gather.

Q You mean when they jumped out of line you didn't know what they wanted to gather?

A Because there was nothing there and they didn't jump out of line.

Q All the prisoners remained in line all the time without any attempt

(Pens-Cross)

to get out of line?

A So far as I know, yes.

Q How many men would walk abreast?

A Five.

Q Did you inquire as to the reason for the firing that went on behind you?

A No, I wouldn't know whom to ask.

Q Well, didn't you talk to Pinter about it?

A With Pinter, no.

Q When you were sent to the rear, were you sent to the rear with a whole column or were you sent to the rear of your hundred?

A The rear of the whole column.

Q What was the physical condition of the prisoners who were in your column?

A Bad, as far as I saw it.

Q How were they fed during the march?

A From what I saw they received one-third of a loaf of bread perhaps every second day and boiled potatoes.

Q Did you hear of any SS men being shot on the route?

A I didn't hear anything about that.

Q Now, didn't the prisoners when you shot in the heart wear over their heart insignia showing from which country they originated?

MR. HALL: Object to the question as containing a conclusion of a fact which has not been stated by this witness.

MR. MERKOWITZ: If it please the court, I call the court's attention not only to testimony of the witness this afternoon but also to Prosecution Exhibit No. 48 in which the witness says "I shot over the heart—shot with a heart shot".

PRESIDENT: Objection overruled.

(Pens-Cross)

A No, all the prisoners had civilian clothes on and I did not see one prisoner who was wearing a number; otherwise, I would know what nationality they were.

Q You speak Slavic languages yourself, don't you?

A Yes.

Q And you recognize Polish or Russian when you hear it, don't you?

A Yes.

Q Now, you stated you didn't know the effect of your shots. Didn't you in your written statement, written in your own handwriting—I refer to Prosecution Exhibit No. 45—state that these prisoners were, to use the German word "Erschossen"—shot to death?

A Yes. I should like to make an explanation to that.

Q You can make your explanation later. What day did you say you escaped?

A The evening of the 24th.

Q And what day did you rejoin the column at Straubing?

MR. HALL: Object to the question as containing a conclusion of a fact which is not in evidence by this witness.

MR. HERKOWITZ: If it please the court, the witness said he rejoined the column at Straubing and continued on to Dachau and arrived at Dachau on the 28th.

PRESIDENT: Objection sustained.

Q When did you come to Straubing?

A The 25th.

Q You saw the column there?

A No.

Q When did you see the column again?

A I did not see it again.

Q And you didn't complete your escape but continued on down to Dachau, didn't you?

(Cross-Cross)

A Yes.

Q And you further volunteered for combat duty and went to Allach and then with combat troops in the direction of Tirol, is that correct?

A The combat unit was deactivated behind Allach. Only I, Pinter and several other comrades went to Tirol.

Q And you followed the German fighting forces towards Tirol where they were to make a stand, didn't you?

MR. HALL: Object to the question as there being no preparation to determine whether or not this witness knows where the German forces were going to make a stand, or if there even were any German forces.

MR. BURKOWITZ: I would like to have the answer from the witness and not from defense counsel.

MR. HALL: I ask for a preparation in all, sir.

PRESIDENT: Objection sustained.

Q Where did you surrender to the American forces?

A In Linden.

Q Why did you go to the Tirol?

A It was clear that we didn't want to go to the Russians. We wanted to go in the direction of Tirol. Unfortunately, we didn't want to surrender then at that time either. And when we arrived in Linden I had enough of it and I said, "I won't go along with this any further; I am going to surrender"; and Pinter came along.

Q Well, the Russians weren't coming to Flossenburg, were they?

A No, the Russians did not come to Flossenburg.

Q And the Russians weren't coming to Straubing?

A No.

Q Nor to Allach?

A No.

MR. BURKOWITZ: No further questions.

(Pens-Cross)

PRESIDENT: Court will take a short recess in place.

(Thereupon the court recessed in place at 1:30 and reconvened at 1:35.)

PRESIDENT: Court will come to order. Redirect?

MR. O'CONNOR: May it please the court, I have a no cross examination on behalf of the accused Skierka, in view of his direct examination.

PRESIDENT: Proceed, Mr. O'Connor, with cross examination.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Pens, I understand you testified that on the 20th of April, prior to the time the column marched out of the camp, you saw Skierka.

A Yes.

Q Where did that meeting take place

A Out front in the yard in front of the headquarters building.

Q Was that the roll call square?

A Yes, in front of headquarters.

Q Where was he standing?

A He was standing at the right wing.

Q Now, when you saw him that was sometime prior to the actual marching out of the prisoners, was it not?

A Yes.

Q At the time you saw Skierka standing there Koegel had not yet put in an appearance, had he?

A No.

Q And, as a matter of fact, Skierka left the roll call square and camp prior to the time Koegel put in an appearance, didn't he?

A I don't know that.

Q Well, you didn't see him there after Koegel appeared, did you?

A I didn't pay any attention to it then any more. I only know that when passed there he was standing there with the officers.

(Pens-Redirect)

Q Well, you can't remember seeing him there after Koegel appeared, can you?

A That I can't say exactly.

Q Who was it that made the report to Koegel at that meeting that all the guards were present and in place.

A An officer, a captain.

Q Do you know his name?

A I don't know.

Q Now, you testified on your direct examination, Mr. Pens, that you received the order regarding the head and heart shots from Baumgartner, is that correct?

A About head shots I received it from Baumgartner.

Q Well, who gave you the one about heart shots?

A This order was brought from the commandant by a messenger. The messenger said "Orders from the commandant: No more head shots—heart shots" so I have to assume the commandant said it.

Q Was that the only time you received that order?

A Yes.

Q And how many times did you receive the order regarding the head shots?

A Once.

Q Now, I think your testimony was that on the first day of the march on the 20th of April you marched at the head of the column, is that right?

A At the head, no. I said in the first third of the column.

Q Of the second column?

A The second column, yes.

Q And the second column was marching behind the first column on the 20th, were they not?

A I assume that.

Q And you didn't see any bodies along the road on the first day's march, is that correct?

(Pens-Redirect)

A No, I did not see any.

Q You received a certain threat from the adjutant Baumgartner in which he told you if you didn't follow out his orders that he could shoot you, is that correct?

A Yes.

Q And you were marching with the first column when that happened, were you not?

A With the second column.

Q Didn't you at a later time join the first column?

A No.

Q You received the order regarding the shots in the head on the 23rd, is that correct?

A Yes, from the adjutant.

Q Had you received such an order before that from anyone?

A I had not received it before.

MR. O'CONNOR: That is all, sir.

PRESIDENT: Redirect?

QUESTIONS BY MR. HALL:

Q You had an explanation that you wanted to make in regard to the German word mentioned by Mr. Berkowitz.

A Yes.

Q Go ahead.

A Mr. Berkowitz said something about "Erschossen". I was interrogated by a polish captain. I don't know the German written language. I told him that I was not capable of writing German. He told me "I shall tell you what you should write and that's the way you write it". When we came down to the shooting incidents he said "You have shot five people to death". I said "I should not say shot them to death; I shot at them". He asked me at what part of the body I fired. I said "In the direction of the heart—heart shots".

(Pens-Redirect)

He said "Write down that you shot to death five people by heart shots". I said something else to him. He said "It doesn't make any difference whether you put down 'shot' or 'shot to death'; it's the same in English", so I wrote down "shot to death— erschossen".

MR. HALL: If the court please, at this time I should specifically like to call the court's attention to Prosecution Exhibit No. 48-A in connection with the difficulties concerning these words. That is all, sir.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Do you know the difference between the meaning of the German words "Schossen" and "Erschossen"?

A Yes.

Q And you used the word "Erschossen"?

A Yes. I used it because he told me to put it down in that manner because it would be the same.

Q This is in your own handwriting?

A Yes.

Q And you know how to write?

A He dictated to me. I always had to ask him how to spell it; whether I should use capital letters or small letters, or just how to write the words.

Q Isn't it a matter of fact that he assisted you with your spelling?

A Yes.

Q And that you selected the words that you were going to use?

A I selected. He dictated to me. He had another statement made by me and he looked over that statement and he dictated to me what I was supposed to write.

Q That other statement was made verbally, was it?

A Yes.

Q And was it taken down by a stenographer?

(Fenz-Recross)

A Yes.

Q And when you dictated this statement verbally you used the word "erschossen"?

A It could be. I don't want to state that.

Q And nobody dictated the words to you at that time?

A No.

MR. BERKOWITZ: I ask the reporter to mark this Prosecution Exhibit 92 for identification. This is a record of an interrogation of Penz.

PRESIDENT: Before whom?

MR. BERKOWITZ: Before Major Roberti. It consists of four pages.

(The document referred to was marked Prosecution Exhibit 92 for identification.)

Q Penz, I show you Prosecution Exhibit marked No. 92 for identification and I ask you to look at it and tell me what it is.

A That is my statement.

Q I call your attention to page 4 of this exhibit and ask you if your signature appears thereon.

A Yes.

Q Did you swear to the truth of this statement?

A Yes.

Q I call your attention to page 2 of the exhibit and refer you to the following line and ask you to tell me what it says (indicating).

A "I shot to death four or five".

Q. And you used the word "erschossen" in that connection, did you not?

A Yes.

Q And you had no difficulties with writing when you stated these facts at the time of this interrogation?

A About this word "erschossen", this "Shot to death", I talked with him about it and I said to him that I had shot in the direction of the heart

(Penz-Cross)

but I couldn't state whether I had hit them or not, as I had before during interrogation with Mr. Berkowitz stated.

Q This interrogation was taken down word for word by a German stenographer, was it not?

A Yes.

Q And you signed it and swore to it?

A Yes.

Q And the word "Erschossen" appears in that statement?

A Yes.

MR. BERKOWITZ: No further questions.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Mr. Pens, you note that that statement was taken before the Major Toberti who appeared here on the stand?

A Yes.

Q Did you study that statement over for twenty minutes, like he suggested before this court, before you signed it?

A Twenty minutes? I didn't study it at all.

Q I call your attention to page 3 of that statement and I am pointing to this line (indicating). Will you please read that line.

A "Were prisoners shot to death on this transport?" Answer "Yes".

Q Now, is that word "erschossen" contained in the question of the interrogator?

A In the question, yes.

MR. BERKOWITZ: Are you finished with your examination?

MR. HALL: I am through, yes. I was only going to suggest that if there was any doubt in the minds of the court about the loose way in which those words have been used before the court, they might get the expert advice of the interpreter. That is all.

(Cross-Redirect)

PRESIDENT: Proceed, Mr. Markowitz.

[illegible] EXAMINATION

QUESTIONS BY MR. BERGHEIM:

Q Now, the line I referred to a moment ago in which you said, "I shot four or five to death", was that in the form of a question by the interrogator or was that your own statement?

A That was my answer.

MR. BERGHEIM: No further questions.

PRESIDENT: Does the defense have anything further as far as the witness is concerned?

MR. ALL: Nothing further, sir.

[illegible] BY THE COURT

PRESIDENT: Fenz, the court will give you an opportunity to make an explanation or any statement you see fit to the court at the present time.

MR WITNESS: Yes. Well, the statements made by our officers: In former time they were spitting in great arches. Today they haven't seen anything and haven't heard anything. I can't understand that, that they want to keep their hands clean and throw the dirt at us men. They act like new born babies. And I should like to say that they were not any better in the camp here. We were just as much suppressed in the camp as the prisoners were. Finally, whenever you would meet them in the yard you would make a detour. When you didn't salute in the correct manner you would go to the bunker for three days. Those were our gentlemen officers. Today they are too yellow to account for the actions which they have carried out. They should like to say that the men did it; that they don't know about anything. Sad, but true. That is all I have to tell the court.

PRESIDENT: Are there any questions as far as members of the court are concerned? Apparently not. Is that all you have, Fenz, at the present time?

THE WITNESS: Yes.

PRESIDENT: The witness will be excused and will resume his position

(Fenz-Court)

in the dock.

(Whereupon the accused was excused and resumed his place in the dock.)

PRESIDENT: Court will adjourn until 0900 hours tomorrow morning.

(Whereupon at 1700 hours the court adjourned until 0900 hours, 17 December 1946.)

Particul[illegible]

[illegible] Charge[illegible]

[illegible] Ankle[illegible]

[illegible]

[illegible] Military Court to be held

[illegible]

Uhr [illegible]

[illegible] Order
[illegible] Auftrage von

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort .....

Date
Datum .....

Name of accused .....
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage .....

.....

.....

.....

Particulars: ..... Einzelheiten: .....

.....

.....

.....

Second Charge: ..... Zweite Anklage: .....

.....

.....

.....

Particulars: ..... Einzelheiten .....

.....

.....

.....

.....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at .....
in (Address of Court)
(Anschrift des Gerichtes)

on ..... 194 .....
am

at .....
um Uhr stattfinden.

By Order
Im Auftrage von

.....

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused ..... 194.....
Abschrift dem Angeklagten zugestellt am

.....
(Signature of person making service)
(Unterschrift des Zustellers)

UNITED NATIONS ARCHIVES	CAMERA OPERATOR'S REPORT AND CERTIFICATE	REEL NO. 107

PRODUCTION DATA	INDEXING DATA		CODE NO.
STARTED 15/2/89	PERIOD	United Nations War Crimes Commission (UNWCC) Member Governments, other National Authorities abd Military Tribunals PAG-3/2.2 : 5779 - 8251	
FINISHED 16/2/89			
TOTAL NUMBER OF IMAGES 2607		Reports of National Military Tribunals U.S. Military Courts War Crimes Trial Reports and transcripts of Proceedings, Testimonies, Affidavits, Court Exhibits, Certificates and other records of Trial Case Nos. 373 Vol. 81 - 112 End of Reel 107	
APPROVED:			

CERTIFICATION

I certify that the micrographs appearing in this reel of film are true copies of the original records described above.

Date: 16/2/89

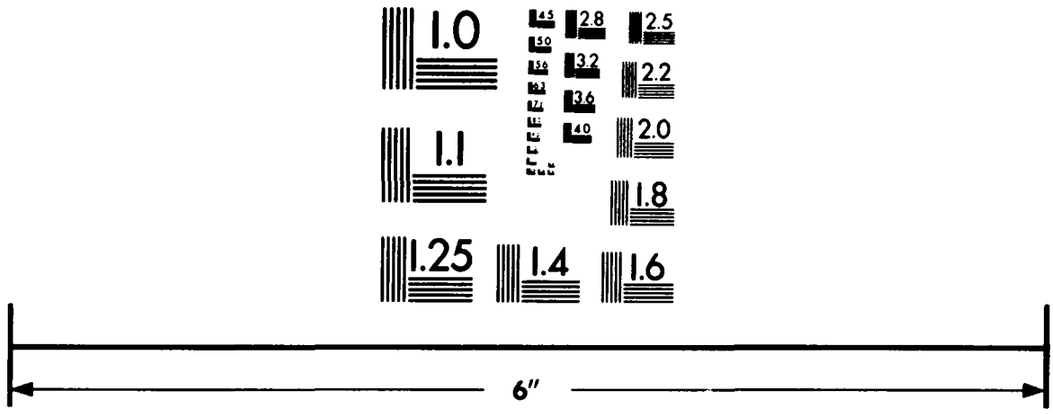
Signature of Camera Operator: A.R. Evans

RMS. 11-63

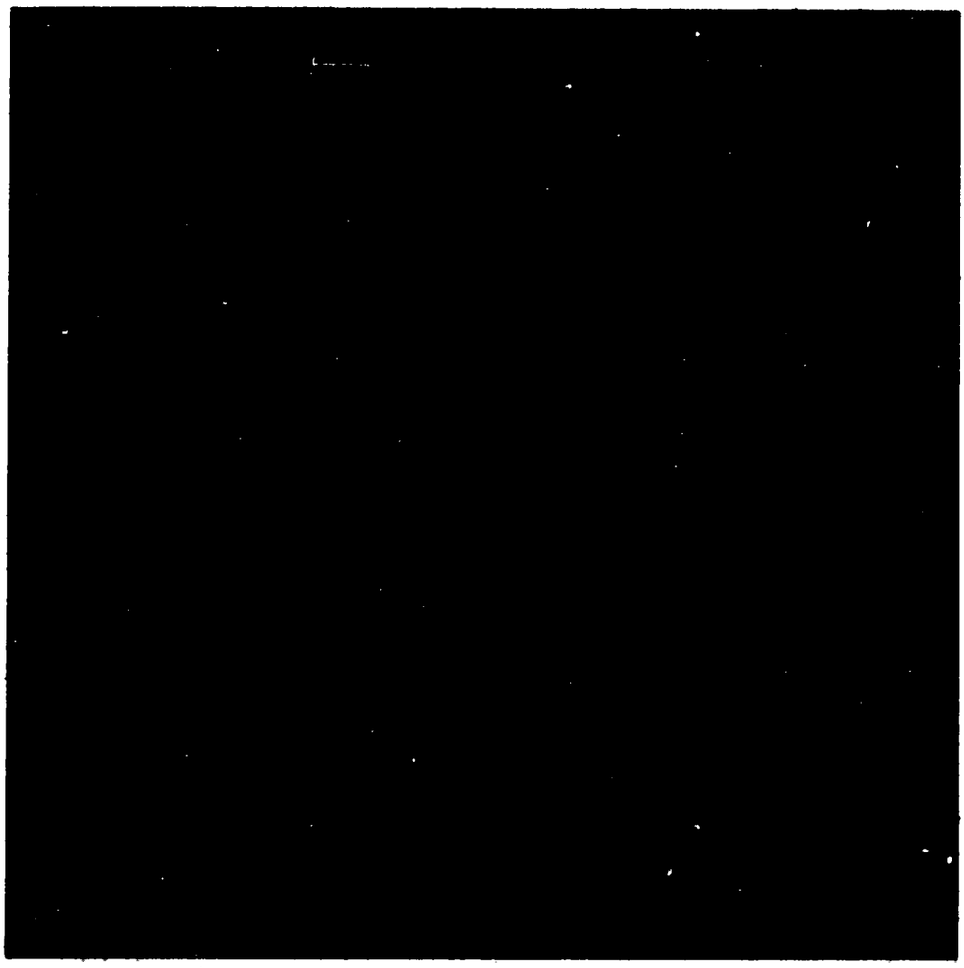
REDUCTION

26X

IMAGE EVALUATION TEST TARGET (MT-3)



PHOTOGRAPHIC SCIENCES CORPORATION
770 BASKET ROAD
P.O. BOX 338
WEBSTER, NEW YORK 14580
(716) 265-1600



UNWCC

PAG - 3

REEL

no.

107

UNITED NATIONS ARCHIVES

security microfilm PROGRAMME

1989

END

united nations archives·microfilm 5 oct.1978